# LEGISLATIVE COUNCIL

**Wednesday 2 July 1997**

**The PRESIDENT (Hon. Peter Dunn)** took the Chair at 2.15 p.m. and read prayers.

## QUESTIONS ON NOTICE

**The PRESIDENT:** I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 134, 182, 192, 196, 197, 208, 210, 211, 213-215, 217-220 and 226.

### GOVERNMENT CARS

134. **The Hon. P. HOLLOWAY:**

1. Is the Minister for State Government Services concerned that the sale and lease back of the Government light motor vehicle fleet to the Commonwealth Bank received only a qualified audit report from the Auditor-General in respect of the 1995-96 year?

2. Noting the audit opinion that the reporting of Services SA did not comply with AAS17 in the finance lease under which the South Australian Government motor vehicle fleet has been outsourced, what is the Minister for State Government Services doing to ensure future compliance by Services SA to AAS17?

3. Why did Services SA adopt a valuation of the light vehicle fleet that was one third lower than the 'fair value of the vehicles sold' (part B, volume 2, page 810)?

4. Why did Services SA not attempt to value the light motor vehicle fleet sold at fair value but instead valued the fleet at the value of the liability (part B, volume 2, page 812)?

5. Does the Minister accept the view of audit that 'the Government was neither better nor worse off (in terms of the risks and benefits associated with the vehicles) immediately after entering into the lease facility' (part B, volume 2, page 812)?

6. Does the Minister accept the view of audit that in terms of the residual risk of the vehicle fleet, 'in substance, such risks remain with the Government' (part B, volume 2, page 811)?

7. If so, why was the fleet not valued at 'fair value'?

**The Hon. K.T. GRIFFIN:**

1. Officers from the Department for State Government Services had lengthy discussions with the Auditor-General's Department and the Department of Treasury and Finance following the sale of the Government's light motor vehicle fleet and was aware of the difficulties of valuing the liability associated with that lease. Following these lengthy discussions, it was agreed that the Department would value the lease liability as $111.3 million and that this would result in a qualification by the Auditor-General of the Department's financial accounts.

2. As a result of the sale of the Government's light motor vehicle fleet to the Commonwealth Bank of Australia and the subsequent lease back by the Treasurer of South Australia, it is necessary to reflect the appropriate accounting treatment of the transaction and, in particular, the approach which should be adopted to recognise the initial asset and liability connected with the lease transaction.

It was agreed between the Department of Treasury and Finance, Services SA and the Auditor-General that from the Government's perspective the transaction is a finance lease as defined by the Australian Accounting Standard AAS17, 'Accounting for Leases'. However, there are differences between Services SA, the Department of Treasury and Finance and the Auditor-General, in how the Accounting Standard is interpreted and how the transaction is reflected in the accounts of Services SA as at 30 June 1996. A financial lease requires Services SA (Fleet SA) to recognise the initial asset and liability as a result of the lease.

I understand that the approach advised by Treasury is consistent with the accounting treatment used in New South Wales.

3. The vehicles were sold at a fair market value and, having sold them, there is a requirement to recognise the lease liability. It is the lease liability that is valued and not the motor vehicles as Government is no longer the owner, and the amount of the lease liability is the issue between Services SA and the Auditor-General.

4. Services SA agreed with the Department of Treasury and Finance to base the value of the liability on the present value of the known minimal lease payments plus any guaranteed residual associated with the vehicles at the end of the lease. Under the terms of the contract, the Government technically does not guarantee the residual values and therefore has no liability for the ongoing residual value of the motor vehicles. This interpretation gives the value of the asset and liability at the inception of the lease at $111.3 million.

5. The Government is better off because it has received the sale price of the motor vehicles and, if the lease arrangement were to be terminated, the vehicles clearly have value and the liability of the Government would not be $176 million, which is the value that the Auditor-General would like recorded.

6. As part of the initial lease agreement, a substantial part of the risk in relation to the residual value of the vehicles does remain with Government. As the term of the facility matures, then the residual risk of the vehicles is clearly with the Commonwealth Bank and the Government has no residual risk. The Government continues to benefit from the financing costs associated with lower interest rate, which flows into the rentals for each vehicle.

7. The vehicle fleet is valued at the present value of the known minimal lease payments plus any guaranteed residual associated with the vehicles at the end of the lease. Under the terms of the contract, the Government technically does not guarantee the residual values and therefore has no liability for the ongoing residual value of the motor vehicles. This interpretation gives the value of the asset and liability at the inception of the lease at $111.3 million.

### YATALA LABOUR PRISON

182. **The Hon. P. HOLLOWAY:**

1. Who conducted the investigation into the circumstances surrounding the Yatala Labor Prison hostage situation which occurred on 6 May 1996?

2. When was the investigation into the hostage incident completed?

3. What were the findings of the investigation?

4. (a) What were the recommendations of the investigation?

(b) What action has been taken on the recommendations?

5. What charges have been made against any prisoners involved?

6. What is the estimated cost of that riot and the components of that cost?

7. What injuries were sustained by the four prison officers taken during the incident?

**The Hon. K.T. GRIFFIN:**

1. An internal review by the Department for Correctional Services was carried out by:

Mr. D. Smedley, Senior Investigations Officer
Mr. R. Leggat, Inspector, Offender Services
Mr. K. Raby, Unit Manager, Adelaide Women's Prison (now General Manager, Cadell Training Centre)
Mr M. Giesecke, Manager, Assessment
Mr. R. Buckseall, Analyst

2. The internal review was completed and the final report and recommendations submitted to the Chief Executive on 11 June 1996.

3. The conclusions of the internal review were:

- The incident of 6 May 1996 resulted from a combination of both spontaneous and planned actions by a core group of prisoners.
- The reasons for the incident were not solely to do with protectee prisoners working in the kitchen and laundry but also involved a desire by some prisoners to cause harm to particular officers and a prisoner's desire to gain notoriety with other prisoners.
- Three officers were particularly targeted in the incident, however, the reasons are unknown.
- The consumption of drugs and alcohol by prisoners did not have an impact on the lead up to the incident.
- There were basic security issues that were not addressed, particularly the conducting of a prisoner count.
- A number of concerns were highlighted regarding the management of that Unit, particularly the bullying behaviour of certain prisoners, the movement of prisoners and the inappropriate storage of tools.

4. The recommendations and action taken to date are:

- That general managers reinforce with all staff the requirement to submit accurate and timely incident reports.

  Written instructions have been given to all unit managers that staff are to complete incident reports in an accurate and timely manner.
- That general managers reinforce with staff the need to target perpetrators of violence within the prison, rather than victims.

Written instructions have been given to all unit managers that perpetrators of violence are to be addressed rather than victims. This instruction will be reinforced on an ongoing basis. Structures and Regimes are being refined to support these actions. Staff have been made aware of the departmental 'bullying policy' and the policy on protection.

- To provide staff training in the management of major incidents. That the department consult with Police regarding the establishment of a joint training exercise for senior Police and departmental personnel.

  Staff are undertaking training. Management and Police have devised operational procedures that pertain to major incidents—joint training is arranged and will commence shortly.
- That the manager Aboriginal Offenders and Recreation Services, the general manager YLP and the Aboriginal Liaison Officers meet to discuss the problems which the ALO's have concerning their role.

  Discussions have occurred in relation to this. Management support systems are now in place and the Aboriginal Liaison Officers have a more defined role and clarity regarding their responsibilities.
- Due to threats made against three officers, the YLP general manager review the reason for the prisoners' threats to these officers and given the threats, also review their placement in the institution.

  A review as to why these officers were subject to threats occurred. All three officers' placements were reviewed and appropriate/agreed actions have been implemented.
- That the YLP general manager instigates discussions with Telstra regarding the feasibility of Telstra providing a mechanism for the easy disconnection of officer telephones in divisions.

  Discussions have been held with the Alcatel telephone contractor to enable quick disconnection of officer telephones should a future incident occur.
- That the YLP General Manager ensures that all aspects of the Departmental Instructions are complied with by staff, particularly those which deal with ensuring the security of the entire prison (i.e,. establishing an accurate count of all prisoners).

  Local operating procedures are now in place reflecting the requirements of security within the institution.
- That the YLP general manager immediately ensures that the Digital Voice Protection (DVP) capability of the hand held radios is encoded into designated handsets. That DVP radios are assigned to specific security functions within the prison and that during any emergency situation, DVP is activated and staff instructed to use this facility.

  Twelve Sabre radios have DVP encoded into them and will be allocated to staff in major incidents. Funds have been secured and orders placed regarding accessories to enable Emergency Response Group to communicate through the DVP radios.
- That the YLP General Manager ensures:
  - that tools of any description are only stored in secure cupboards in workshops or maintenance sheds and not in accommodation units or offices within units;
    Actioned.
  - that a complete inventory is maintained for all tools and all tools are inscribed as being the property of YLP;
    Ongoing.
  - that a register is maintained of all tool issues and returns;
    Actioned.
  - That the registering and inscribing of all tools be the responsibility of a designated officer, possibly the maintenance officer;
    Actioned in E and F Divisions. No significant tools are held in B Division except for a hammer and screw driver in the manager's office.
  - That the YLP general manager further investigate the reasons for the threats concerning the three officers and review their continued placement in B Division.
    Actioned. Explained earlier in this document.
  - That the YLP general manager considers relocating the current B Bunker officer position to the more active role of B Barrier officer, to better control movement into and out of the Division and to better facilitate the searching of prisoners entering the Division, including the use of hand held metal detectors.

    The B Bunker officer will be responsible for the remote control of the barriers and the monitoring of cell intercoms. It is not possible at this stage, for the officer to be out of the bunker and still attend to intercoms.
- That the YLP general manager ensures:
  - that unit staff keep records of prisoner movements outside of the unit, by name of prisoner, destination and reason;
    Actioned.
- that prisoners return to their units, particularly from recreation, in manageable groups to prevent large numbers of prisoners moving around the Division at one time;
  Actioned—As per Local Operating Procedure.
- that during time of prisoner movement, a unit Officer remains at the unit barrier to control movement into the unit. Unit staff only let those prisoners accommodated in that particular unit, have access to the unit during times of general prisoner movement;
  Actioned—all unit staff are aware of this procedure and this is reflected in the appropriate Post Order.
- That prisoner movement between units, other than at the above times, be arranged by unit staff and that the practice of prisoners moving between units unannounced, cease.
  Actioned.
- That the YLP General Manager ensures:
  - that Prisoner Needs Committee meetings are held regularly in all units;

  All Divisions have Prisoner Needs Committees established and meetings are conducted regularly. G Division because of its nature does not have a Committee but has daily mechanisms to ensure individuals needs/complaints are addressed.
- that the Visiting Inspector's log book is viewed by management and issues acted upon as soon as possible.

  Log books are sighted and signed by the General Manager and when possible verbal communication happens directly with General Manager and Managers.
- That the YLP General Manager ensures that any prisoners involved in any incident, who are suspected of being involved in drug use, are directed to provide a urine sample immediately after an incident.

  A Local Operating Procedure is currently being formulated to specifically address this requirement.
- That the YLP General Manager investigates employment opportunities for B Division prisoners with PRIME, including the possible introduction of split shifts for prisoners.

  This has been actioned for mainstream prisoners who now provide a 'casual' pool of workers for PRIME.
- That the YLP General Manager ensures that unit managers develop and maintain records of the skills of their staff and that deficiencies in any officer's skill levels are addressed by developing and evaluating appropriate training programs.

  There is now a specific position allocated for staff training. Responsibilities include the provision of targeted training. A staff training committee has been established and a Skills Audit is to be implemented shortly. (Staff training records are maintained.)
- That the YLP General Manager ensures that adequate time is provided to unit managers to undertake regular training of their staff.

  Rosters and staffing structures/practices have been reviewed. Proposed new rosters have particularly prioritised staff training.
- That General Managers ensure that prior to allowing access to any major incident scene, any departmental investigation has completed its assessment, and an account of any damage to property, including prisoner property, is completed.

  The protection of a crime scene has been addressed in a Local Operating Procedure.
- That the YLP General Manager instigates appropriate disciplinary action against those staff who have failed to comply with the direction to submit a report or provide a copy of their statement to police or given a reason why they could not provide either.

  Where possible, this has been actioned.
- That General Managers ensure that after all incidents staff involved submit reports prior to ceasing duty unless determined otherwise by the manager.
  Staff have been instructed of this responsibility.
- That the YLP General Manager conducts a review of procedures, Post Orders and staff skill levels to ensure that all staff have the necessary skills and that clear and unambiguous direction is given to allow them to perform their duties.

Procedures and Post Orders are currently being reviewed. Local Operating Procedures have been updated and completed. A Staff Training Audit is to be completed shortly.

· That the YLP General Manager reviews the storage of Hexol and any other flammable agents.
Actioned.

5. Ten prisoners were originally charged with various offences. Charges against two prisoners were later withdrawn by the Director, Public Prosecutions Office.

Charges to be heard include:

| | |
|---|---|
| False Imprisonment | —Major indictable offences |
| Damage Property | |
| Assault Occasioning Actual Bodily Harm | —Minor indictable offences |
| Common Assault | —Summary offences |
| False Imprisonment | —Major indictable offence |
| Common Assault | —Summary offence |
| False Imprisonment | —Major indictable offence |

Eight prisoners have eventually been charged regarding this incident. Although it would not be appropriate to name them in this House, I would be happy to brief the honourable member in private regarding this matter.

A tentative trial date of 2 September 1997 has been set.

6. A number of direct costs estimated at $108 000 have been incurred as a consequence of the incident. These have included:

· $62 000 to repair the damage to B Top Wing (i.e., costs of cleaning the area, repairing damaged accommodation and replacing fixtures and painting inside walls and facilities);
· Local store issued requisitions totalling $36 000 for the replacement of Departmentally owned items, prison issued clothing and linen, hand held radios, computers, furniture, telephones, tools and educational equipment;
· Additional food for staff and support units on the night amounted to approximately $700 and $1 030 for prisoners;
· Additional staffing costs (overtime and callbacks for two nights) of $7 600.

Additional consequential costs were incurred by the Department's decision to ensure security during the rebuilding period, to replace prisoners working in the kitchen with contract workers and for the Industry arm of the Department to employ contract workers to maintain the manufacturing contracts temporarily interrupted by staff bans.

7. In respect to the officers concerned, it would not be appropriate to identify their injuries in this House. However, I would be happy to provide the honourable member with this information in private should it still be required.

## PURNONG FERRY

192. **The Hon. T.G. CAMERON:**

1. For what purpose was dispensation given that enabled a former employee of the Department of Transport to win a contract to manage the Penong Ferry, even though he had received a package only two years previously instead of the usual waiting period of three years?

2. Who gave the dispensation?

3. What are the current guidelines for granting dispensation?

4. On what criteria was the contract for the Penong Ferry awarded?

5. Was price the most significant criteria?

6. Is the Minister aware that the successful contractor will be increasing the length of working shifts from eight to twelve hours?

**The Hon. DIANA LAIDLAW:** In response to the honourable member's questions, I trust his enquiries relate to the Purnong Ferry. For his interest, Penong is located inland, west of Ceduna and has difficulties gaining a regular water supply for domestic purposes, let alone sufficient water to warrant the operation of a ferry.

1. In respect to current guidelines for recipients of Targeted Separation Packages (TSP) to tender for Government work, dispensation was granted in this instance by the former Premier on the following grounds.

In July 1994 two former Department of Transport (DoT) employees accepted a TSP with the express intent of tendering for Government ferry contracts—and immediately established a company for this purpose. Five months later (December 1994) a change in Government policy in respect to the eligibility of TSP recipients to tender for Government work, disadvantaged the new company because DoT was barred from accepting their tender during an initial pilot study process.

Subsequent representations led the dispensation being granted, if and when future tenders were called by DoT for the operation of the Purnong Ferry.

2. See 1. above.

3. The Office of the Commissioner for Public Employment advises that there are no guidelines for granting dispensation.

4. DoT criteria for the awarding of the contract at the Purnong site was identical to that used in the assessment of all other ferry sites offered to competitive tender.

· Tender price.
· Experience in effective management of ferries (including supplies, licensing etc.).
· Management systems proposed covering Occupational Health & Safety, rostering, waste disposal and management of call outs.
· Previous experience in the operation of ferries.

5. In all tender assessments price was given a higher weighting than the other factors.

6. DoT has advised that the operator lodged an application with DoT when the post tender information was requested in December 1996 to institute a trial of a twelve (12) hour shift duration roster at Purnong. In consideration of the low traffic volumes associated with the Purnong site, DoT agreed to the trial, subject to the operator undertaking:

(a) to assess the Occupational Health & Safety aspects and impacts of the twelve (12) hour shifts upon individual employees;
(b) to ensure customer service delivery standards are not compromised; and
(c) to maintain standards at the site.

DoT also suggested the operator canvass the twelve (12) hour shift issue with employee representatives, as appropriate.

## ROADS UPGRADES

196. **The Hon. T.G. CAMERON:**

1. What is the cost of the engineering survey for the planned road upgrading project for Churchill Road, Torrens Road and Fitzroy Terrace?

2. Who is undertaking the engineering survey?

3. What impact will the road upgrades have on local residents?

4. (a) Why is the Department of Transport moving from its depot at 26 Churchill Road, Ovingham; and
(b) What is the total cost for the removal?

5. Will the former Department of Transport depot at 26 Churchill Road, Ovingham, be sold or renovated?

**The Hon. DIANA LAIDLAW:**

1. $14 400.

2. Fyfe Surveyors.

3. The Department of Transport (DoT) is currently undertaking a planning study for the upgrading of Torrens Road, between Mais Street and Fitzroy Terrace, including junctions with Churchill Road and Fitzroy Terrace. As part of this study, DoT will be consulting with the local community and will ensure that their concerns are addressed before any decisions are made in regard to this project.

4. (a) DoT has for some time been reducing its direct involvement in road construction with most major projects being undertaken by contract. As a result of this, a number of DoT's construction depots, including the Churchill Road site, are no longer required and have been closed.
Use of the Churchill Road site ceased operation as a construction depot three years ago, although it was used to store materials up until September 1996. The site has been vacated since that time.
(b) The cost of clearing the depot was approximately $5 000.

5. DoT has extensive land holding in the vicinity of Churchill Road, Ovingham. It will be necessary to complete the current planning study and finalise design before any decision can be made regarding the future use of this land.

## SOUTHERN EXPRESSWAY

197. **The Hon. T.G. CAMERON:**

1. From the beginning of construction, how many subcontracts of all types have been awarded for the construction and beautification of the Southern Expressway?

2. How much in total are these contracts worth?

3. How many of these contracts so far have been awarded to small and medium size firms?

4. How many of these contracts so far have been awarded to South Australian small firms?

5. How much are these contracts worth in total?

**The Hon. DIANA LAIDLAW:** The Government, through the Department of Transport does not award subcontracts—only main contracts to companies which may in turn enter into subcontracts for the supply or construction of various specialised works. Therefore, on the basis of contracts that the Government has awarded in respect to the Southern Expressway project, I can confirm—

1. That construction of the Southern Expressway commenced on 11 April 1995 (only nine months after the announcement to build the Southern Expressway) with an initial construction contract to a local firm, Lorenzin Constructions Pty Ltd. Subsequently, 23 more contracts have been awarded for work associated with the construction and landscaping of the Southern Expressway.

2. Approximately $36 million.

3. Twenty.

4. Twenty one of the 23 contracts totalling approximately $29.5 million have been awarded to locally-based firms. While any endeavour to classify these companies is a subjective exercise, it is suggested that 20 of the 21 locally-based contracts could be classified as being 'small' local firms.

5. The total value of the 20 contracts awarded to 'small' local firms is approximately $4.5 million. This excludes the major contract of $25 million awarded to locally-based Macmahon Contractors Pty Ltd, which, when it was awarded the contract, undertook to subcontract the majority of this work to local firms.

## SERCO SERVICE

208. **The Hon. T.G. CAMERON:**

1. How many missed bus runs have occurred on Serco bus routes since Serco won its contract areas?

2. What were the main reasons for these missed runs?

3. What is the comparable situation for TransAdelaide bus routes?

**The Hon. DIANA LAIDLAW:**

1. Serco has two bus contracts with the Passenger Transport Board (PTB)—Outer North which commenced on 14 January 1996 and Inner North which commenced on 12 January 1997. The number of missed bus runs as at the end of April 1997 for each contract is as follows:

Outer North— 585 missed runs out of a total number of 455 053 scheduled trips.

Inner North— 105 missed runs out of a total number of 61 363 scheduled trips.

2. The majority of missed runs occurred as a result of vehicle breakdown.

3. TransAdelaide has the following bus service contracts with the PTB:

- Outer South contract which commenced on 14 January 1996;
- TL3, TL10 and Route 560 contract which commenced on 6 October 1996;
- Outer North East contract which commenced on 6 October 1996;
- South West contract which commenced on 12 January 1997;
- Inner South contract which commenced on 12 January 1997;
- Port Adelaide-Marino contract which commenced on 12 January 1997;
- Le Fevre contract which commenced on 12 January 1997;
- North West contract which commenced on 12 January 1997;
- East contract which commenced on 12 January 1997;
- Circle Line contract which commenced on 12 January 1997; and
- City Free contract which commenced on 12 January 1997.

The following table indicates the number of missed runs for each contract:

| Contract Area | Number of Missed Runs | Number of Scheduled Runs |
|---|---|---|
| Outer South | 423 | 253 972 |
| TL3, TL10 and 560 routes | 42 | 24 981 |
| Outer North East | 304 | 146 795 |
| South West | 74 | 50 277 |
| Inner South | 89 | 53 685 |
| Port Adelaide-Marino | 3 | 3 508 |
| Le Fevre | 10 | 11 915 |
| North West | 95 | 82 221 |
| East | 133 | 54 873 |
| Circle Line | 16 | 5 880 |
| City Free | 26 | 13 628 |
| Totals | 1 215 | 701 735 |

The main reason for TransAdelaide's missed trips is vehicle breakdown.

## PARKING, CITY

210. **The Hon. T.G. CAMERON:**

1. Since the introduction of Serco bus routes in 1996:

(a) how many city car parking spaces have been lost; and

(b) how many additional buses have had to be provided because of the elimination of most through-routing?

2. Are there any plans for the O-Bahn city terminus site in Currie Street to be sold?

3. If so, where will the large number of O-Bahn buses which currently use the terminus between 3.00 p.m. and 6.00 p.m. on weekdays park?

**The Hon. DIANA LAIDLAW:**

1. (a) Following the contract to Serco to operate Inner and Outer North bus services, the Passenger Transport Board and the Adelaide City Council negotiated a reduction of approximately 40 car parking spaces in the City.

(b) It is estimated that approximately 20 additional buses are required in service because of the elimination of through-routing. It is not possible to be more precise because a number of other service changes were made at the same time. The additional cost of these buses was taken into account when comparing total costs to Government of the new contract arrangements.

2. No.

3. See answer to Question 2.

## VEHICLES, HEAVY

211. **The Hon. T.G. CAMERON:**

1. Will the Government introduce the following reforms in order to have nationally consistent rules and standards as recommended in the National Road Transport Commission's Heavy Vehicle Reform Package:

(a) one driver, one licence;

(b) common pre-registration standards;

(c) enhanced safe carriage and restraints of loads;

(d) the adoption of national bus driving hours; and

(e) interstate conversions of drivers' licences?

2. If not, why not?

**The Hon. DIANA LAIDLAW:**

1.—

(a) An amendment to the Motor Vehicles Act to provide for 'one person—one licence' was contained in the Motor Vehicles (Licences and Demerit Points) Amendment Act 1992, which came into operation from 1 June 1992.

Since 1 June 1992, South Australia has participated with interstate licensing authorities in the identification of multiple licence holders through the Multiple Licence Active Tracking System. This system involves an on-going comparison of the licence registers in each jurisdiction to identify multiple licence holders. Where a person is identified as having more than one licence, action is taken to cancel every licence held, other than the licence issued in the jurisdiction in which the person resides.

The enforcement of the 'one person—one licence' provision and the identification of multiple licence holders, will be enhanced with the establishment of the 'National Exchange of Vehicle and Driver Information System' (NEVDIS), which will electronically link all registration and licensing data bases in Australia. NEVDIS is expected to commence operation in May 1998.

(b) In July 1997 all new vehicles registered in South Australia will be subject to a pre-registration inspection by the seller to verify that the vehicle identification standards have been fully satisfied, that is, that the Vehicle Identification Number, or VIN, recorded in the national VIN database is correct and correctly identifies the vehicle. The technical standards under the Road Transport Reform (Heavy Vehicle Standards) Regulations dated 22 March 1993, under the Federal Road Transport Reform (Vehicles and Traffic) Act 1993 (assented to 18 January 1994), are incorporated in the VIN placarding requirements. This reform was identified as Item 4 (National Vehicle Standards) under the first National Road Transport Reform Package.

(c) Later this year South Australia intends to adopt the Load Restraint Guide under the South Australian Road Traffic Act.

The guide was jointly developed by the Federal Office of Road Safety and the National Road Transport Commission. The main purpose of adopting the guide is to ensure that drivers are aware that they will be held legally accountable for restraining loads to a reasonable standard. At present there are difficulties enforcing the current regulation under the Road Traffic Act affecting this area, for example, it is necessary under the current regulation for a load to move in a manner that either results in a spillage or is deemed a factor contributing to an incident, before a successful prosecution under the Act can be mounted.

(d) The South Australian Government will commit to upholding the strategic intent of the national driving hours and associated log book. Rather than template or mirror legislation it is intended that existing legislation be modified to reflect the principles of the national driving hours and national log book. The 'national bus driving hours' along with the 'national truck driving hours' have been brought together to form the one standard to cover driving hours for the drivers of all heavy vehicles, which includes a maximum of 14 hours per day. It is anticipated that the new standards will be introduced under the Road Traffic Act to commence on 1 February 1998, to coincide with the national program for implementation.

(e) The holder of an interstate driver's licence, who takes up residence in South Australia, is issued with a driver's licence endorsed with the same classes appearing on the interstate licence, without the need to undertake a written or practical driving test. The Regulations under the Motor Vehicles Act currently allow the Registrar to exempt a person from the payment of the fee for the interstate conversion of a driver's licence. This nationally agreed provision has recently been introduced for the interstate conversion of a driver's licence in the ACT and Victoria. It is intended to delay implementation of 'no fee' interstate conversions until the establishment of NEVDIS and until the majority of jurisdictions have implemented the nationally agreed common licence classes and reciprocal 'no fee' provisions for the conversion of interstate licences.

## STUDENT CONCESSION CARDS

213. **The Hon. T.G. CAMERON:**

1. How many students were issued with transit infringement notices for using concession tickets whilst not being in possession of a valid concession card for the periods:
(a) 1993-94;
(b) 1994-95;
(c) 1995-96; and
(d) 1/7/96-31/12/97?

2. How much revenue was collected as a result of transit infringement notices being issued to students using concession tickets whilst not in possession of a valid concession card for the periods:
(a) 1993-94;
(b) 1994-95;
(c) 1995-96; and
(d) 1/7/96-31/12/97?

**The Hon. DIANA LAIDLAW:**

1. The honourable member has requested information on the issue of expiation notices in relation to student concession card offences, by financial year. However, the storage and retrieval system enables data extraction by calendar year only, not financial year. Also the data is available by age grouping, and not specifically for students—while offence reports do not differentiate between student and other concession categories.

Accordingly, details on concession card offences are provided by age group per calendar year.

Concession Card Offences

| | Reports by Age Group | | | | | Expiation Notices Issued | |
|---|---|---|---|---|---|---|---|
| Year | 15-17 | 18-24 | 25-34 | 35-54 | 55+ | Adult | Juvenile |
| 1993 | 3 584 | 2 494 | 752 | 326 | 24 | 255 | 104 |
| 1994 | 5 283 | 4 582 | 1 003 | 533 | 72 | 507 | 137 |
| 1995 | 8 350 | 7 899 | 1 758 | 940 | 126 | 1 253 | 591 |
| 1996 | 8 622 | 8 557 | 1 826 | 987 | 88 | 1 706 | 839 |
| 1997* | 2 142 | 2 162 | 462 | 254 | 42 | 224 | 116 |

*Up to and including 31 May 1997

2. For the reasons outlined above the Passenger Transport Board (PTB) is unable to provide the details requested by financial year. Also, I am advised that it would take about 20 person hours to collate one (1) year of data—and necessitate the shut down of the computer system for all routine functions during this time period. As this option is not practical, the PTB has provided a summary of revenue from concession card offences for the calendar year 1996 only, being $79 100.

## RAIL, STAFFING

214. **The Hon. T.G. CAMERON:**

1. Which suburban railway stations were staffed in the years:
(a) 1993-94;
(b) 1994-95; and
(c) 1995-96?

2. Are there plans to close any other suburban railway stations in 1996-97?

**The Hon. DIANA LAIDLAW:**

1. The following railway stations were staffed in 1993-94; 1994-95 and 1995-96:

Adelaide, Noarlunga Centre, Oaklands, Salisbury, Elizabeth and Gawler.

Over the same period the only railway station from which staff were removed was Brighton Railway Station—by the former State Labor Government—in June 1993.

Since that time Liberals have insisted that the vacated space in the Brighton Station is occupied—and this objective has now been achieved with space in the building now leased to a private kiosk operator who provides information and Metrotickets.

2. There are no plans to close any railway stations in 1996-97.

## BUS AND TAXI TRIAL

215. **The Hon. T.G. CAMERON:**

1. When will the long awaited trial for public bus and taxi services to connect Sellicks, Aldinga, Willunga and McLaren Vale with Seaford and Noarlunga become operational?

2. (a) For how long will the trial last; and
(b) How much will it cost?

3. (a) Has a transport co-ordinator been employed as yet; and
(b) If not, when will this occur?

**The Hon. DIANA LAIDLAW:** On 19 December 1996 the Passenger Transport Board informed the Southern Region of Councils in writing that I had approved funding from the Passenger Transport Research and Development Fund for the following trials:

- A six month trial of east west bus services to link Willunga, McLaren Vale, Seaford Centre, Noarlunga Centre and Aldinga—cost $35 000.
- A six month trial of subsidising a taxi to rank in the Aldinga/Sellicks area between 10am and 4pm, from Monday to Saturday—cost $15 000.

These trials will be established and managed by a Transport Co-ordinator employed by the Southern Region of Councils, funded through the Passenger Transport Research and Development Fund. This position was advertised on 24 May 1997. Applications closed on 11 June 1997 and interviews have now been completed. The naming of the successful applicant and the subsequent commencement of the trials is a matter for the Southern Region of Councils.

**JETTIES**

217. **The Hon. T.G. CAMERON:**

1. How many people have been either injured or killed on South Australian recreational jetties under the responsibility of the Department of Transport's Marine Facility during the years:

(a) 1993-94;

(b) 1994-95: and

(c) 1995-96?

2. What steps has the Minister taken, or are currently in process, to ensure South Australian recreational jetties are safe for use for the general public?

3. In the interest of public safety, will the Minister order a safety and maintenance audit of all South Australian recreational jetties under the responsibility of the Department of Transport?

**The Hon. DIANA LAIDLAW:**

1. Unlike the Road Traffic Act covering accidents which occur on roads, there are no legislative requirements for reporting accidents that occur on jetties. Accidents are only brought to the attention of the Department of Transport (DoT) when people lodge claims for injuries received as a result of these accidents.

DoT is aware of 5 accidents which occurred between 1993 and 1996 as a result of the condition of the jetties, i.e. one during 1993-94; two during 1994-95 and two during 1995-96.

There were no deaths relating to the State's jetties during this period.

2. and 3. All of the State's jetties are inspected by DoT at least every three months. Thirty (30) of the jetties are leased by local Councils and, as part of the lease agreement, they are responsible for the maintenance of decking and handrails.

On 10 August 1996 the then Premier, Hon. Dean Brown MP, announced that up to $12.8 million would be spent by the State Government over four years for urgent upgrades of jetties to 30 per cent recreational standard.

**DRIVERS, LICENCES**

218. **The Hon. T.G. CAMERON:**

1. Why was the printing of South Australian motor vehicle photo licences outsourced to an interstate company?

2. What South Australian companies tendered for the work?

3. Why are there delays of up to one month for licences to be sent to motorists since the production of licences were outsourced?

4. Does the Minister consider a one month waiting period for licences to be acceptable?

5. If not, what steps has the Minister taken to ensure the company concerned reduces the waiting period?

**The Hon. DIANA LAIDLAW:**

1. The issue of photographic drivers' licences commenced in South Australia in September 1989—during the term of the previous State Labor Government. Since this time the Department of Transport (DoT) has obtained photographic licences from private sector suppliers.

I am advised that when DoT selected Leigh-Mardon as the preferred supplier in 1989 South Australia was provided with the option of having the licences manufactured at Leigh-Mardon's South Australian premises on Cavan Road, Dry Creek, or at their premises in Victoria. As Leigh-Mardon was the supplier of photographic licences to Victoria, and the necessary equipment for the production of the licences had been operating in their Victorian premises for a number of years, the manufacture of the licences in Victoria was deemed the most cost effective option—with the manufacturing costs being shared between Victoria, South Australia and Tasmania.

2. In 1989, Leigh-Mardon and Polaroid Australia Pty Ltd were the only two companies supplying photographic licences in Australia. Rather than call tenders, DoT decided to negotiate directly with each supplier—and as outlined above Leigh-Mardon was selected as the preferred supplier.

Within the past two years approval has been given for DoT to adopt a more advanced computer photographic licence system. Expressions of interest for the provision of such a system were called in March 1995, with submissions received from Polaroid Australia Pty Ltd, Leigh-Mardon, Honeywell Security and Olivetti Australia Pty Ltd, all of whom have a presence in South Australia. Leigh-Mardon was selected as the preferred supplier in December 1995.

The existing contract with Leigh-Mardon has been extended several times since then whilst contract negotiations have taken place. In this time Leigh-Mardon have conducted a trial of the computer based technology in Victoria—and DoT has preferred to await the outcome of the Victorian trial before proceeding to implement the new technology in South Australia.

3. to 5. The existing contract with Leigh-Mardon provides for the licences to be manufactured and dispatched within five working days of receipt of the exposed film. The process results in a client receiving their licence about two weeks after their photograph was taken. However, in April 1997, due to a shortage of laminate used in the production of the licences, delays of up to one month were experienced. Leigh-Mardon informed DoT in advance of the expected delay and licence holders were made aware of the likely delay.

Currently, Leigh-Mardon are exceeding their requirements by dispatching licences within four days of receipt.

219. **The Hon. T.G. CAMERON:** Will the Minister direct the Department of Transport's Registration and Licensing section to consider sending licence renewal notices and medical examination notices if they are directed to the same person in the one envelope to save duplication of resources?

**The Hon. DIANA LAIDLAW:** While the honourable member's suggestion appears reasonable in theory the Registrar of Motor Vehicles advises it is not practical for all the following reasons:

The holder of a driver's licence may be required to be medically examined each year, or alternatively, every two, three or five years. The factors which determine the frequency of the medical review include age, the need for the licence holder to take prescribed medication, the nature of the medical condition and the recommendation of a medical practitioner.

In the case of a licence holder who is over the age of 70 years, he or she is required to undertake a medical examination each year. This generally occurs at the anniversary of the licence holder's birth, rather than the driver's licence itself. In other cases, the medical review may occur on the anniversary of the Registrar becoming aware of the licence holder's medical condition. This may or may not coincide with the expiry of the driver's licence.

As drivers' licences are usually issued for five year periods, it is therefore rare for the medical examination and the renewal of the driver's licence to coincide.

Renewal notices and requests for a medical examination are printed, enveloped and prepared for mailing in separate automated processes. I am advised that the cost of linking the two notices, on those occasions where they are printed at the same time, would be significantly greater than the savings in postal charges.

**SCHOOLS, SAFE ROUTES PROGRAM**

220. **The Hon. T.G. CAMERON:**

1. How much is the Government currently spending on its 'Safe Routes to School' program?

2. What impact has the 'Safe Routes to School' program had on road safety for those areas currently trialing it?

3. Is this program to be extended to cover all primary schools in South Australia?

4. If so:

(a) When is this envisaged; and

(b) How much will it cost?

5. How many children were killed or injured travelling to or from school for the years:

(a) 1993-94;

(b) 1994-95; and

(c) 1995-96?

**The Hon. DIANA LAIDLAW:**

1. The Government, through the Department of Transport (DoT) has spent $113 000 on the 'Safe Routes to School' (SRTS) program since November 1996 when the pilot program commenced for primary schools. Subsequently, work has commenced to launch a secondary school 'Safe Routes' program.

2. The 'Safe Routes to School' program has been very well supported by the school community in South Australia, especially by teachers and parents. It is too early, however, to measure the road safety impact of the program in the trial areas. However, it is anticipated that the positive outcomes will include:

- a safer environment for primary school aged children travelling to/from school;
- an increase in the number of children walking to school;
- greater parent participation in road safety community based programs; and

· less motor vehicle congestion around schools.

This initiative has been launched on the expectation that DoT will be able to evaluate and review the pilot program during the early part of 1998.

3. Subject to the outcome of the pilot program the Government is keen for DoT to develop a strategy to enable a 'Safe Routes to School' program to be implemented State-wide.

4. See 3 above.

5. The following figures, derived from accidents reported to the Police, represent injuries and fatalities to children between the age of 5 and 17 known to be walking to/from school, driving a motor vehicle to/from school, being a passenger in a vehicle to/from school and children riding a bicycle or motorcycle to/from school.

(a) 184 — 80 in the 5 to 12 age group, i.e., 1 fatal and 79 injured; and
— 104 in the 13 to 17 age group, i.e., 0 fatal and 104 injured.

(b) 224 — 113 in the 5 to 12 age group, i.e., 3 fatal and 110 injured; and
— 111 in the 13 to 17 age group, i.e., 0 fatal and 111 injured.

(c) 213 — 94 in the 5 to 12 age group, i.e., 0 fatal and 94 injured; and
— 119 in the 13 to 17 age group, i.e., 1 fatal and 118 injured.

### COMPLIANCE PLATE

226. **The Hon. T.G. CAMERON:** Has a decision been made in relation to the written request to the National Road Transport Commission from the Registrar for Motor Vehicles requesting that consideration be given to providing registration authorities with the ability to reduce the compliance plate GVM to the operating mass, where a vehicle has been modified from its original design and is no longer used as a bus? If not, when is a decision likely?

**The Hon. DIANA LAIDLAW:** As the honourable member would be aware, the Commonwealth Road Transport Charges Act provides for the registration charges for heavy vehicles, which includes heavy vans and buses, to be determined according to the gross vehicle mass appearing on the compliance plate fitted to the vehicle. The National charges apply to vehicles with a gross vehicle mass greater than 4.5 tonnes. The National Road Transport Commission (NRTC) has now indicated to the Registrar of Motor Vehicles that it supports his proposal to allow registration authorities to reduce the gross vehicle mass to the operating mass, where a vehicle has been modified and can no longer be used to carry goods or passengers.

The NRTC has also indicated that it has no objection to South Australia implementing the proposal in advance of an amendment to the Commonwealth Road Transport Charges Act. Consequently, the proposal will be implemented forthwith. This will allow the Registrar to calculate the registration charges for mobile caravans, that were originally constructed as vans or buses, according to the caravan's operating mass, rather than the gross vehicle mass appearing on the compliance plate. The Registrar has undertaken to write to the owners of mobile caravans to request that they provide a weighbridge note, so that the operating mass can be determined. Once the operating mass has been determined, the registration charge will be re-calculated and a refund will be provided in those cases where the operating mass is 4.5 tonnes or less.

### LEGISLATIVE REVIEW COMMITTEE

**The Hon. R.D. LAWSON:** I bring up the nineteenth report of the committee.

### TELEPHONE TOWER, COBBLERS CREEK

**The Hon. DIANA LAIDLAW (Minister for Transport):** I seek leave to table a ministerial statement made this day by the Minister for the Environment and Natural Resources regarding Cobblers Creek.

Leave granted.

## QUESTION TIME

### SWIMMING TUITION

**The Hon. CAROLYN PICKLES:** I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about funding for swimming tuition.

Leave granted.

**The Hon. CAROLYN PICKLES:** I have been advised that this year the Government will set aside approximately $4 million to be used by schools for a swimming and aquatics program, with about $1 million of the total directed to the non-government school sector. I have also received claims that the funding from this program for non-government schools is not tagged and could therefore be diverted for other purposes. Concern has also been expressed about standards and programs for children with disabilities. Because of the detail in the following questions, I am quite happy for the Minister to bring back a reply on some aspects of the following questions. My questions are:

1. Can the Minister advise the level of funding for the public and non-government schools swimming programs in 1997-98?

2. How are funds to individual non-government sector schools allocated?

3. What level of accountability is applied, and can the Minister guarantee that funds have not been used for any other purpose?

4. Does the Government require standards and accreditation for programs used by the non-government sector, including programs for children with disabilities, and what are the details?

5. Why are non-government schools not required to use a DECS swimming program to avoid cost duplication and to guarantee standards?

**The Hon. R.I. LUCAS:** I will take those questions on notice and bring back a reply. Certainly, within the last 12 months there has been a change in the arrangements for funding of swimming programs for non-government schools. I recall that the Non-government Schools Advisory Committee, a body established to advise Ministers for Education on the issue of funds to non-government schools, came to me and put a proposition for a change in arrangements. There was some concern that the funding for swimming programs was being inequitably distributed between some schools: some schools were getting as much as $70 000 worth of swimming programs and other schools were getting nothing. The view of the Non-government Schools Advisory Committee was that that was inequitable.

In broad terms it has been devolved to individual schools; that is, overall funds are made available to non-government schools and they purchase the swimming services that they require. Therefore, it is a decision for individual non-government schools as to the level and extent of their swimming program.

It is important to note that the Vacswim program, which is run in the Christmas break, is made available to Government and non-government students alike, and it is the major learn-to-swim program for young children. These additional programs within both Government and non-government schools are obviously important but, as the honourable member has suggested, they cover swimming and aquatics and they involve a range of other water-related sports and

activities within which the notion of safety is an important aspect.

Other than those general comments, which confirm the fact that the decisions are broadly left to non-government schools in relation to the extent of service that they purchase, the major reason why the advisory committee recommended a change to me as Minister was the previous inequitable distribution of the funding or the programs. I will take the detailed questions on notice and bring back a reply.

## FISHERIES COMPLIANCE UNIT

**The Hon. R.R. ROBERTS:** I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about a report completed on the Fisheries Compliance Unit within PISA.

Leave granted.

**The Hon. R.R. ROBERTS:** Over the last few years there has been a significant alteration in the number of compliance officers and the way in which they are spread around the State. Fisheries is a very important industry, both from a recreational and a commercial point of view and, with a reduction in the number of compliance officers, concern has been expressed to the Opposition by recreational fishermen, in particular, and commercial fishermen about the state of the compliance unit. I understand that great pressure is being put on compliance officers to cover vast areas of the fishing estate in South Australia, and this has caused a number of problems.

I also have reason to believe that a report was completed by W.J. O'Hare titled, 'Stress Impact Study—A Mirror Image', which was essentially a discussion on the management of the Fisheries Unit in PISA. I have outlined why this occurred. I understand that this report was meant to be published in September 1996 and made public at that date. I have also learnt that it was published in March 1997 but was not made a public document. Instead, it was made available to a few selected people within the department, and some concerns have been raised as to the content of this report and why it was not made public, given that it was a discussion paper on the operations of a Government department in relation to a very significant and multimillion dollar industry. My questions are:

1. Will the Minister confirm that this report has been released publicly? If it has not, why has it not been released?

2. If the report has not been made public, will the Minister detail when he may make it public?

3. If the Minister does not wish to make it a public document open for public access, will he provide this Council with a copy of the document?

**The Hon. K.T. GRIFFIN:** I will refer the honourable member's question to my colleague in another place and bring back a reply.

## TORRENS RIVER

**The Hon. T.G. ROBERTS:** I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for the Environment and Natural Resources, a question about the Torrens sludge dump.

Leave granted.

**The Hon. T.G. ROBERTS:** In the environment section of the (where would we be without it?) *City Messenger* there is the proposal—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. T.G. ROBERTS:** When in Opposition you are almost kept as much in the dark as when you are a backbencher in Government and you need to grab hold of every piece of information that you can from any source that you can. My question relates to the information being supplied to me by the environment section of the *City Messenger* in relation to—

**The Hon. Diana Laidlaw:** Have you checked out whether it is true?

**The Hon. T.G. ROBERTS:** That is what I am trying to attempt to do now—the Adelaide High School and its surrounds being the pond for containment after the Torrens has been dredged. For the benefit of those backbenchers, and perhaps even Ministers who are not aware of the project, the article states:

> Adelaide High School students, parents and staff are seeing red about the fact they could soon be seeing brown.

That is not Mr Brown. It continues:

> A site alongside the school's playing field has been earmarked for ponds into which mud from the River Torrens will be pumped during the river's $1.7 million dredging.

The Opposition supports the Government's initiative in cleaning up the Torrens River and I must say that, if this project does get approval from the Development Assessment Commission, the *Advertiser* now will be able to at last say that the Government is doing something about it, because we have had reams of printed material indicating that it is all happening, when nothing has happened in the past 3½ years except for the containment of some solids out of traps in the upper reaches of the Torrens.

Now we can say that the Government has a proposal on the drawing board, but it is certainly causing a lot of concern in the area around the Adelaide High School, particularly amongst the students and staff. The article continues:

> Tenders are being assessed for the River Torrens dredging, funded by the city council, Torrens Catchment Water Management Board and the State Government. Sediment from the river will be pumped to the network of six 1.5 m deep ponds where it will be allowed to settle to the bottom and the clean water pumped back to the river. The mud will be allowed to dry and be trucked away.

The article further states:

> Odours were unlikely because the sediment would have low organic content and pond water would be too turbid for mosquitoes breeding. The ponds would be fenced off.

Apparently odours will be too strong for blowflies as well. It surprises me that mosquitoes will not be bothered with a ponding system.

*The Hon. R.R. Roberts interjecting:*

**The Hon. T.G. ROBERTS:** No. My questions are:

1. What is the timetable being set by the Development Assessment Commission to receive submissions?

2. What testing is to be done on the sediment and the resultant mud?

3. Where is the mud to be dumped if this proposal is the final one and it is accepted or, for that matter, if any other proposal is accepted by the Development Assessment Commission?

**The Hon. DIANA LAIDLAW:** I will refer the honourable member's questions to the Minister and bring back a reply.

## CLARE HOUSE

**The Hon. SANDRA KANCK:** I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about the use of Health Commission funds for building a house in Clare.

Leave granted.

**The Hon. SANDRA KANCK:** An article in the *Northern Argus* of 25 June 1997 states—

*Members interjecting:*

**The Hon. SANDRA KANCK:** Yes, we Democrats are very wide-ranging in our sources.

*Members interjecting:*

**The PRESIDENT:** Order! The Minister for Education and Children's Services: I would like to hear the question.

**The Hon. SANDRA KANCK:** The article in the *Northern Argus* of 25 June 1997 states that the Government is to build a $170 000 house to 'provide quality rental accommodation' for the Wakefield Regional Health Services Manager. In the real estate section of that same paper there are modern, three bedroom homes for around $78 000 and executive accommodation for rental from $130 per week. Land prices in the town start from around $19 950.

**The Hon. M.J. Elliott:** Except on top of the hill.

**The Hon. SANDRA KANCK:** On top of Polish River Hill: that is probably with the views. My questions to the Minister are:

1. Is it the case that a new dwelling is to be constructed in Stanley Street, Clare, as the newspaper says, as rental accommodation for the Wakefield Regional Health Services manager? Will the Minister confirm that the cost of constructing this house will be $170 000?

2. Will the manager be paying the landlord (the South Australian Health Commission) market rental?

3. Were other options considered, such as the manager making her own arrangements re private rental, lease or purchase?

4. Has this occurred in other areas or is it the intention of the Health Commission to repeat this practice in other regions?

5. What will be the annual council and water rates for this property, and has a statement of recurrent expenditure been prepared for the venture?

6. Will the Health Commission be responsible for the total cost of finishing the new premises by supplying items such as floor coverings, light fittings, landscaping and a dripper system—which is very important, as we found from the real estate pages of the *Northern Argus*? If so, which part of the health budget will bear the cost and what is the anticipated cost?

7. Why has this use of capital works money been approved whilst other urgent capital works in our health system remain at a standstill?

8. Given that smaller hospitals in the Wakefield region are threatened with closure, does the Minister consider that this is good use of the health dollar?

**The Hon. DIANA LAIDLAW:** I will refer that series of questions to the Minister and bring back a reply.

## NATIVE TITLE

**The Hon. P. HOLLOWAY:** I seek leave to make a brief explanation before asking the Attorney-General a question about native title.

Leave granted.

**The Hon. P. HOLLOWAY:** Following the release of the Federal Government's draft Wik legislation, the weekend *Sydney Morning Herald* reported:

> The States could extinguish native title by converting leasehold land to freehold under the Federal Government's draft Wik legislation, the Prime Minister's Parliamentary Secretary, Senator Nick Minchin, admitted yesterday.

Senator Minchin was also reported as saying that the draft Bill acknowledged that the Wik decision had increased the percentage of potentially claimable land from 36 per cent to 78 per cent of the continent. My questions to the Attorney are:

1. Does he believe that the High Court's Wik decision has the effect of increasing the percentage of potentially claimable land, as claimed by Senator Minchin, given that the question of the Wik claim has been referred back to a lower court?

2. Does the State Government support the Commonwealth's Wik legislation in its current form?

3. What is the State Government's position on the conversion of leasehold to freehold land?

**The Hon. K.T. GRIFFIN:** I think every honourable member would recall that when our native title legislation went through this Parliament it contained a declaration that it was our view that, in relation to pastoral leases, native title had been extinguished. What the Wik decision decided in relation to Queensland pastoral leases was that pastoral leases did not in that State extinguish native title. There is an argument that in this State the nature of our pastoral leases is not caught by that decision, but it is an argument and it will not be resolved unless at some time in the future it is tested. If one were to translate the Wik decision in relation to Queensland titles to South Australia, then it is certainly arguable that the Wik decision has increased at least the potential for claim in relation to pastoral leases in South Australia and, therefore, right across Australia.

The argument which the South Australian Government and the Parliament finally acknowledged in the native title South Australian legislation was that if native title had not been extinguished, the remnant rights that remain are those recognised by section 47 of the Pastoral Land Management Act—rights to enter pastoral land, to camp, to hunt, to conduct religious ceremonies, and so on—and that that would be the extent of native title that could be claimed if in fact native title had not been extinguished. Our argument had been that native title had been extinguished and replaced with the statutory rights under section 47 of the Pastoral Land Management Act.

We will not know what the final decision on that will be until the matter is tested in the courts. I have said publicly that our estimate is that, with 20 native title claims in South Australia, if each claim has to be researched, assessed, mediated and litigated in the Federal Court it will be many years before they are resolved and the cost to the taxpayers of this State would be at least $5 million per claim. In that sense an extraordinary breadth of resources is required, such as money and human resources, in servicing those claims, and that is if one looks only at the costs to the State: it does not take into account the costs to all the other parties, particularly the claimants.

We have taken the view that if there is a way in which we can, by negotiation, crystallise rights in relation to land in South Australia, particularly pastoral land, then it is desirable to look to that end. Quite obviously the Wik plan provides at least a significant advance on what the law currently is to

enable there to be resolution of native title claims. For example, one of the points in the Wik 10-point plan is to allow negotiation of regional agreements or area agreements, as some may call them, which will have the effect of crystallising the claims and those who might be entitled to them. Quite obviously we are very supportive of that provision in the 10-point plan.

In terms of the other provisions, we have indicated again that we see that the 10-point plan does provide a real prospect of the country getting on with the job without prejudicing native title claimants, recognising that, regardless of how one looks at it, at the end of the day there will always be compensation. If native title rights are acquired then compensation will have to be paid. So, it is a question of looking at this issue in the context of whether a claimant is likely to lose his or her rights to claim and then ultimately to establish a substantive right and, if so, what is the amount of compensation that might be paid to replace the loss of that right.

If one looks at it in the context of non-Aboriginal people, compulsory acquisition of land by a public authority does require the payment of fair and reasonable compensation and, whether it is a non-Aboriginal or an Aboriginal person with rights, there is a sense in which one can quite rationally and reasonably argue that, on a non-discriminatory basis, if fair and reasonable compensation is payable for the acquisition or other dealing with that right, then that satisfies the requirements of the Racial Discrimination Act.

Certainly, our legislation in this State is non-discriminatory in terms of the Racial Discrimination Act and even in a broader context, and I suggest that the essence of the 10-point plan is not racially discriminatory in that sense. I know there is all sorts of hype going on. The Opposition spokesman federally, Mr Melham, is saying that this is racially discriminatory, but if you look at it objectively I do not believe that you will rationally and reasonably be able to argue that point of view.

So, the Government and the State have taken the view that we support the 10-point plan. We have also taken the view that, in the context of that 10-point plan, if there are disputes it will not ultimately lead to the resolution of those disputes by any means other than legal process in the courts of Australia. It will cost a very substantial amount of money for those to be resolved. In addition, if these go to litigation, human resources will have to be troubled constantly in putting the cases together and tension and trauma will be caused by actually being in court and fighting each other when, in the longer term, both Aboriginal and non-Aboriginal people will have to live together in one community.

So, the Government has taken the view that if we can possibly negotiate with those Aboriginal people who claim a traditional association with land, with pastoralists and with mining interests for a regime which gives a much greater level of certainty without depriving claimants of their rights or at least access to fair and reasonable compensation, we ought to be going down that path. In the longer term, we hope that there will be a resolution by that means. Given the way in which this Government has been dealing with issues of native title, no-one can say that we have not been prepared to sit down to consult with all those who have an interest, particularly Aboriginal people. The results of the legislation which passed through this Parliament over the past three years or so clearly indicate the starting point which this Government has taken in dealing with those issues.

In relation to the conversion of pastoral leasehold land to freehold, one of the ways by which some greater level of security of tenure can be given to pastoral lessees is to move to a longer form of tenure. We are not talking about freehold. It may be a longer form of leasehold, but I stress that that is likely to occur only if there is consultation and negotiation between all interested parties. Certainly in the material that we have put out for discussion on an informal basis, that is the framework of an agreement where there is free and open discussion and ultimately resolution, rather than legislative fiat. So, I think that all those matters will be adequately dealt with in this State. They will take some time, but they will take much less time with much less trauma than by going down the route of litigation, which may not be resolved for many years to come.

## WORKERS' COMPENSATION

**The Hon. T. CROTHERS:** I seek leave to make a precied statement before asking the Attorney-General representing the Minister for Industrial Affairs a question about workers' compensation.

Leave granted.

**The Hon. T. CROTHERS:** There has been an ongoing and continuing saga over the past five or so years within this Parliament on issues relating to workers' compensation. Certainly, when my Party was in government one of the major issues relating to the aforementioned was the repeated failure of the Federal Government to contribute financially to the cost being totally borne by South Australia for the future wellbeing of incapacitated workers and their families.

**The Hon. A.J. Redford:** That was the Paul Keating Government.

**The Hon. T. CROTHERS:** You can count, too. Can you go beyond five then?

**The Hon. Anne Levy:** He can't count with his shoes on.

**The Hon. T. CROTHERS:** I know; and don't they smell! One of the courses to be pursued by the then Minister for Industrial Affairs involved bringing in policy changes to the Workers Compensation Act which had the effect of transferring financial liability for an injured worker's future from the State Government's hands to those of the Federal Government. Fortunately, the then Minister's backbench committee at that time had on it a good leavening of former trade union officials who recognised—

*The Hon. A.J. Redford interjecting:*

**The Hon. T. CROTHERS:** Listen and learn, Mr Redford—the proposed changes for what they were and also believed that injured workers and their dependents should not be made the innocent victims of State and Federal Government buck-passing. The matter did not progress any further, and it is most unfortunate that the same backbench knowledge and expertise of the realities of workers' compensation as they are daily practised is mostly unavailable to the present Government.

Let me place on record now that I do not support the shonk or the cheat in relation to compensable matters. I never have done so and, indeed, never will do so. Every year worldwide 220 000 workers are killed and another 1.2 million injured or become ill because of their involvement in over 1.2 million work-related accidents in the workplace. It has been estimated that a further 65 million-plus workers contract work-related diseases. In addition, in 1995, 378 workers were murdered, about 2 000 were injured, 5 000 were arrested and detained, whilst over 68 000 were improperly dismissed because of their involvement in trade union activities. These issues especially occur in countries such as Indonesia and the

Philippines, and many others in Asia, Latin America and Africa.

Despite all the foregoing, the present Government has made many amendments to the present State Workers Compensation Act to such an extent that we now find that in the space of three years the compensation fund has gone from a proposed horrendous predicted deficit into surplus. There is no doubt that many people find this commendable, but others who have been subject to the present day rigours of workers' compensation and the people who are currently employed there have opined to me that the present policing methods employed against those injured workers are draconian in the extreme.

Let me cite a case in point which I know very well, as the recipient of that type of treatment is a family member of mine. This extremely hard-working and honest individual was an extremely highly paid tradesperson who sustained a back injury. During the course of treatment for that injury one of the treatments used was a lumbar puncture, during the course of which one of the spinal fluid sacs was punctured. This was unknown to the injured person at the time of its happening, but the consequences of that medically inflicted injury resulted in his suffering from blinding headaches, many stays in hospital for traction, unendurable agonies of pain and an enormous run around to other doctors and specialists to try to determine why such a simple back injury which he had first sustained was so difficult to treat. They all said that they could not understand it, even though they tried to blood patch the secondary injury which is, as I understand it, one of the treatments used to try to treat the secondary injury of the spinal sac penetration inflicted on this worker by the doctor who did the original lumbar puncture.

But not one of the medical professionals told him what happened until he found an honest doctor who correctly diagnosed what had happened. He tells me that through several years of suffering he was subject to the most outrageous and at times downright shonky activities of officers of the Workers' Compensation Board.

**The Hon. A.J. Redford:** Who set them up? Which Government?

**The Hon. T. CROTHERS:** You did.

*The Hon. A.J. Redford interjecting:*

**The Hon. T. CROTHERS:** You are only an innocent child in respect of these matters, and like all children at their father's knee the Hon. Mr Redford should learn to listen and learn and not try to impose on all of us the blinding light of your own self-indulgently believed intelligence.

*The Hon. L.H. Davis interjecting:*

**The Hon. T. CROTHERS:** I did. I saw you on the road to Damascus, and I can—

*Members interjecting:*

**The PRESIDENT:** Order! We are not in the Holy Land at the moment and we do not need help from anyone. I suggest that the questioner get on with his question.

**The Hon. T. CROTHERS:** Thank you for your protection, Mr President. Any right-thinking person would have to have a heart of stone if they were not appalled by all these events, and by no means have I exaggerated the suffering of this individual. For instance, section 32 of the governing Act until December 1995 provided that all medical bills incurred by injured workers would be paid for. A decision of a single member of the Workers' Compensation Tribunal overturned this, although this decision has been recently reversed by the Full Bench of the tribunal. However, during the period in which the single member's decision held sway, WorkCover agents used this to its fullest extent. For instance, the injured worker to whom I refer was sent at his own expense to get a specialist's opinion—he already had three—with the threat hanging over his head that if he did not comply his compensation would be stopped—and this at a time when negotiations were in train between WorkCover and the injured worker for full and final settlement of the claim.

Like most workers in that position he did not have the $500 needed for this report, but as he was and is related to me I advanced him the necessary money. The specialist in question—whom I will not name—was regarded in my day as an insurance company specialist, but his final assessment showed that in his opinion this worker had a 40 per cent permanent disability. The claim has now been settled for $70 000, less legal costs incurred by the worker in question as he pursued his legitimate claim. This amount is meant to assist him, his wife and three children for the rest of his non-working life. My questions to the Minister are:

1. How many injured and permanently incapacitated workers for whom WorkCover no longer bears responsibility have come into existence since 10 December 1993 through their claims being finalised?

2. Is your Government prepared to issue instructions to the officers of WorkCover to cease and desist from the horrendous harassing tactics that they now employ against people whose only crime is to be injured at work and, if not, why not?

*Members interjecting:*

**The PRESIDENT:** Order! That was one of the best second reading speeches that I have heard for a long time. It barely falls into the category of a question.

**The Hon. T. Crothers:** That is your opinion, Mr President. It is all fact.

**The PRESIDENT:** I am not denying that it is fact, but it was really a second reading speech or a five minute grievance speech, and that is too long for a question. It is the honourable member's own colleagues who suffer when such long questions are asked.

**The Hon. L.H. Davis:** Anne Levy was not impressed.

**The PRESIDENT:** Order!

**The Hon. K.T. GRIFFIN:** I will refer the question to my colleague in another place and bring back a reply.

## RETIREINVEST

In reply to **Hon. R.D. LAWSON** (4 June).

**The Hon. K.T. GRIFFIN:** The Australian Securities Commission (ASC) is conducting a formal investigation pursuant to Section 13(1) of the ASC Law respecting the conduct of RetireInvest Pty Limited (RetireInvest) and a former employee, Thompson Brindal Limited (TBL), former employees and directors. The investigation concerns the alleged unauthorised trading in securities on RetireInvest client accounts through TBL. The matter is being conducted as expeditiously as possible.

In relation to the issue of compensation of affected RetireInvest clients by RetireInvest, the ASC is satisfied to date that RetireInvest is acting responsibly in the circumstances and has no reason to believe at this time that all affected clients will not be fully compensated.

## APPEAL COSTS FUND ACT

**The Hon. R.D. LAWSON:** I seek leave to make a brief explanation before directing a question to the Attorney-General on the subject of the Appeal Costs Fund Act.

Leave granted.

**The Hon. R.D. LAWSON:** The Appeal Costs Fund Act was passed in February 1979. It had bipartisan support and,

on reading the speeches in Parliament at that time, I see that it was generally thought to be a long overdue measure. It implemented the recommendations of the thirty-first report of the South Australian Law Reform Committee. Briefly, the structure of the Act is to establish a fund vested in the Crown and administered by the Attorney-General.

Section 6 provides that the Treasurer will pay into the fund an amount equal to the prescribed percentage of revenue derived from court fees. Section 7 provides that, where an appeal on a question of law succeeds, a certificate may be granted to any party to the appeal certifying that his tax costs are to be wholly or partially payable from the fund. The amount specified in the Act as the maximum certifiable is $5 000.

The court is also empowered to grant an indemnity certificate in cases where, colloquially speaking, a trial is aborted. The section gives four examples: where the judge dies or retires; in criminal proceedings where the Crown discontinues and no order for costs is awarded against it; proceedings where the action is discontinued for reasons not attributable to any act or default of the parties; and also circumstances where the court refuses to sanction the compromise of an infant's claim and the matter proceeds to trial but the infant is awarded less than the filed offer. As I said, this measure had universal support at the time of its passage in February 1979. However, I notice that the Act has never been proclaimed. My questions are:

1. Does the Attorney have any intention to proclaim the Act?

2. Does he consider that the measures contained in this Act would be of public benefit, in particular, in the light of the pressure throughout the system on legal aid?

3. Are there other unproclaimed Acts of which the Attorney is aware and which either require removal or a proclamation to be made commencing them and, in relation to that, has any study been undertaken of unproclaimed legislation on the books?

**The Hon. K.T. GRIFFIN:** The answer to the first question is 'No.' The answer to the second question is 'Yes, there would be some public benefit.' The difficulty is money and, as I understand it, that is why it has never been proclaimed by either Labor or Liberal Administrations. It is a matter of finding the money from somewhere and, if a percentage of fines goes into the Appeal Costs Fund, it is that much less money for other things, and I do not think that any Administration has yet regarded this of such high priority that it ought to be brought into effect.

As to the third question whether there are other unproclaimed Acts that may require proclamation or removal, I think there is a mere handful of provisions on the statute book which have not been brought into operation. The Acts Interpretation Act contains a provision that, if a measure is not proclaimed to come into effect within two years of the date of assent, it will come into effect automatically, and that has created some difficulties with some provisions.

One of the portfolio Bills deals with body armour for police. We were the first State off the mark to enact legislation which would put controls on the availability of body armour, but the Australian Police Ministers' Council could not agree on a uniform format, as a result of which our provision was not brought into effect. However, it did come into effect in May this year by the effluxion of time two years from the date of assent of the Act in which it appeared.

The law does not allow long periods to elapse before proclamation is made. That is one of the reasons why a deal more caution must be exercised now about the sort of legislation that we enact but where there may be some doubt as to whether or not it will be ultimately brought into effect, because the effluxion of time will ensure that that occurs.

## ARTLAB

**The Hon. ANNE LEVY:** I seek leave to make a brief explanation before asking the Minister for the Arts a question about Artlab.

Leave granted.

**The Hon. ANNE LEVY:** Some time ago the Statutory Authorities Review Committee looked at boards of statutory bodies in South Australia and made a very strong recommendation—unanimous, I might add—that all commercial bodies run by the Government should have a board of directors. This was strongly supported by the committee, which has three Liberal and two Labor members.

When we looked through the great range of commercial activities undertaken by the Government, we found that, with one exception, every Government operation which was commercial in nature had a board of directors which functions to assist that organisation and ensure that it has proper results. The one exception was Artlab.

**The Hon. A.J. Redford:** There were two exceptions: there was also TransAdelaide.

**The Hon. ANNE LEVY:** Yes, TransAdelaide and Artlab. The committee recommended that all commercial organisations which did not have a board should have one instituted so that they could function as a proper commercial entity for the benefit of the people of South Australia. The two exceptions, one in arts and one in transport, both come under the Minister's jurisdiction. My questions are:

1. Has the Minister given consideration to this unanimous recommendation from the Statutory Authorities Review Committee to establish boards for commercial entities such as TransAdelaide and Artlab? If not, why not?

2. Will she consult with her colleague the Hon. Legh Davis, Chair of the Statutory Authorities Review Committee, about this strong recommendation from the committee if she has any doubts about it?

3. Will she consider establishing boards for these two commercial organisations as soon as possible, as I am sure the organisations concerned would welcome having a board?

**The Hon. DIANA LAIDLAW:** I am not sure why Artlab today would welcome having a board any more than it would have welcomed having a board when the honourable member was the Minister for the Arts—and it was not acted on at that time. I have considered the issue and at this time I have seen a direct benefit to Artlab in terms of the way in which it operates its commercial charter and the success with which it has enjoyed building up its business in recent years, but certainly I will consult with the Hon. Legh Davis and perhaps he can give me a reason to convince me, as I am not convinced at the moment. Secondly, in terms of TransAdelaide, the Government has no plans to establish a board.

## GREENHOUSE EFFECT

**The Hon. M.J. ELLIOTT:** I seek leave to make a brief explanation before asking the Minister for Education, representing the Premier, a question about the greenhouse effect.

Leave granted.

**The Hon. M.J. ELLIOTT:** There is now a general scientific consensus that the greenhouse effect is a reality. It is certainly true that there is no consensus as to what the rate of global warming will be. There is a consensus that, despite the fact that there is no consensus about the scale of warming, there will be climatic regimes migrating. The major consequences will not be so much the change in temperature but increased rainfall in some areas whilst other areas will suffer a decrease, changes in storm frequency, changes in evaporation, changes in time of rainfall—in other words, perhaps less winter rain and more summer rain—changes when seasons break and so on. The potential ramifications are quite significant. For example, changes in storm frequency and the severity of the storm could challenge stormwater design and could make current zoning inappropriate.

Quite clearly, changes in time of seasonal breaks and changes of intensity of rainfall and other events also would have significant effects on agriculture. Changes in seasonality and evaporation can also have significant impact on water catchments, not just the Mount Lofty Ranges which are important to Adelaide but elsewhere. I note that even at the current time important decisions are being made in relation to water catchments. For instance, the Government now is promoting significant new plantings along the Murray River and only on Monday Minister Wotton announced a new policy in relation to ground water in the South-East. It is worth noting that ground water levels in the South-East have been dropping and, according to the experts, appear to be in reaction to lower rainfall over recent years.

My questions to the Leader of the Government in this place are: does the Government have a climate policy which addresses the potential impact of the greenhouse effect and, if it does, does that policy adopt the notion of the precautionary principle; and does it place any particular requirements on Government agencies in terms of the application of that policy?

**The Hon. R.I. LUCAS:** I will refer the honourable member's questions to the Premier, who I am sure will probably have to take advice from the Minister for the Environment and Natural Resources and perhaps other Ministers, and I will bring back a reply.

## INTERPRETER CARD

**The Hon. P. NOCELLA:** I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Minister for Multicultural and Ethnic Affairs, a question about the interpreter card.

Leave granted.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. NOCELLA:** In reply to a question in this Council I was advised that the interpreter card, which was launched on 18 November 1994, was distributed to the tune of 417 cards during the two year period from November 1994 to October 1996. During the same period I was advised that the card had been used nine times. Even to the most casual observer this would appear to be such a small number of times to be almost statistically insignificant. Therefore, it would seem that the request that was made prior to its introduction by many ethnic communities that the card should be used on a universal basis as it is in the three other Australian States that have adopted a similar card was reasonable. In other words, it would not be used simply by new arrivals (meaning up to two years from arrival) but it would be used by all those who, regardless of their length of stay in Australia, still have not managed to become fluent in English and therefore could make use of this tool. It does not confer additional rights: it simply makes it easier for people who are not fluent in English to front up at the counter of a Government department, show the card and obtain the services of an interpreter as they would if they could express themselves fluently.

This was rejected on the basis that the cost would be prohibitive. The Parliamentary Secretary made great representation about the incredible cost that this would attract, and therefore it was introduced on this very restricted basis with the result that after two years this card has been used only nine times. My questions, after this illuminating and illustrating review, are:

1. Will the Minister now extend the eligibility to the interpreter card to all those citizens who need it?

2. Since the use of the card was tied up with the release of the access and equity report which was announced by Premier Brown in June 1996—and was to be completed by the end of 1996 but still has not seen the light of day—could they be released together so that all South Australian citizens who can benefit from this card can finally receive it?

**The Hon. R.I. LUCAS:** I will refer the honourable member's question to the Minister and bring back a reply.

## PARLIAMENT HOUSE, CENTRE HALL

**The Hon. ANNE LEVY:** I seek leave to make a brief explanation before asking you, Mr President, a question about Centre Hall.

Leave granted.

**The Hon. ANNE LEVY:** As we all know restoration and alteration work has been going on at Parliament House for a considerable period now. It is approaching finality, I am very glad to say and, with a bit of luck, it might even be finished before the election. I think the last bits are being done now in terms of the lift and it remains to be seen whether or not what results is an improvement of lift speed or service. Although the workmen have long departed from Centre Hall, the front doors remain closed and the proper entrance to Parliament House through the main front door from the steps remains closed, despite the fact, as I say, that the workmen have finished, the desk has been installed and everything seems ready except perhaps for turning some lights on. When is it expected that the main doors of Parliament House will reopen so that the proper entrance can be used by members of the public who come to Parliament House, instead of having to make do with alternative unsatisfactory arrangements? Incidentally, when will the passage near the lift be completed with pictures and statues and other such items restored as they were before the renovations started?

**The PRESIDENT:** There are several answers to the question. Time has expired—

*The Hon. Anne Levy interjecting:*

**The PRESIDENT:** Order! If the honourable member wants to extend her question, I will give her time. The reason why the Centre Hall doors are not open is that Centre Hall is not finished. To finish the Centre Hall we need to install security equipment that has been deemed to be necessary, and the hall needs to be carpeted. The fact is that the funds have been depleted for the completion of the upgrade. A request has gone to Treasury for a little extra money to finish this off, and it will be done as soon as we get a response.

With regard to the area adjacent to the lift, in respect of which the honourable member asked about some paintings and decorations, that area belongs to the House of Assembly and it is up to that House to fix it up, not up to us as a Legislative Council. However, we have the issue in mind and will do it as soon as possible. Sometimes these things are not just as easily fixed as it would appear. The honourable member will recall that for about the first seven years I was here the front doors were locked permanently.

**The Hon. Anne Levy:** Yes, and we finally got them open again.

**The PRESIDENT:** Yes, I understand that, and then we closed them again. They will be opened as soon as the Centre Hall is completed, and I am endeavouring to have that done as quickly as possible. I am now waiting on a little extra money to complete that.

*Members interjecting:*

**The Hon. Anne Levy:** It's possible to open it without a carpet.

**The PRESIDENT:** If you like, I will put a gravel top on it and you can have it like that.

## MATTERS OF INTEREST

### AWCOCK, MS F.

**The Hon. L.H. DAVIS:** Fran Awcock, Director of the State Library of South Australia since 1991, recently announced that she would be resigning to take up the position of Director of the Victorian State Library. It is appropriate to pay public tribute to the enthusiasm, vision and commitment of Fran Awcock over the past six years. In the past few years, South Australia has been reeling from the massive financial losses suffered by the State Bank and SGIC. Perhaps not surprisingly parochialism, looking inwards rather than outwards, has become the order of the day for many people and, indeed, for many institutions in this State. But not for Fran Awcock. She recognised that the electronic highways were there to be travelled and she preached that libraries should adopt and adapt to this new technology.

Only a week ago I had the pleasure of attending a public lecture given by Doctor Paul LeClerc, the President and Chief Executive Officer of the New York Library. Doctor LeClerc described how last year he had received Fran Awcock in his office in New York. Within 15 minutes of their first meeting, she had invited him to visit the South Australian State Library and also to give a public lecture. Doctor LeClerc, in recalling this meeting at this recent lecture, described Fran Awcock as 'intriguing, beguiling and persuasive.' The fact that she could persuade the leader of one of the world's greatest libraries, with an annual budget of $A260 million, to come to Adelaide is a testimony to her enthusiasm and to her doggedness.

Doctor LeClerc told a packed Elder Hall that, since the New York Library had established a web site home page 12 months ago, it had recorded 1.6 million hits a month from 98 countries and that figure was increasing by 15 per cent per month. Interestingly, Australia ranks third only behind the United States of America and Canada in recording the largest number of hits. Doctor LeClerc also discussed the New York Library's commitment to digitising sought-after books from its collection, which will allow worldwide access to this literature through the Internet. When he became CEO 3½ years ago, Dr LeClerc committed to placing the entire print collection onto an electronic catalogue, which will cost millions of dollars and take many years.

Fran Awcock was also committed to travelling this information highway. The annual report of the Libraries Board under her leadership was a model for other statutory authorities. It was full of detail of the State Library's activities and its aggressive and exciting information technology program. The 1995-96 annual report, for example, discussed the landmark SALINET project, which was described as having effectively brought the State Library of South Australia from being one of the last Australian State libraries to automate to being recognised as a library at the forefront of information technology. This report notes that in late 1995 'the State Library was appointed by the Premier as the lead agency for provision of South Australian Government information on the Internet'.

The library has also established an Internet reference group open to all South Australian Government agencies with an interest in the Internet. Fran Awcock brought the State Library to a position of leadership in library technology. Only recently the library launched an appeal to establish a permanent exhibition of memorabilia of the world's greatest cricketer, Sir Donald Bradman, which will also feature multimedia components. The exhibition will be housed in the Institute building on North Terrace adjacent to the library.

For many people Fran Awcock was regarded as the best State librarian in Australia. In Victoria she will preside over a $160 million redevelopment of its library. I am sure that she will meet that challenge with distinction.

I personally want to pay my tribute to the work that she has done in the past six years. The State Library and, certainly, the State of South Australia has been the richer for it.

### TEXTILE, CLOTHING AND FOOTWEAR INDUSTRY

**The Hon. P. HOLLOWAY:** I wish to speak in support of the textile, clothing and footwear industries, which are currently the target of the Industry Commission, following the recent attack of the Productivity Commission on the automotive industry. Back in 1992 I moved a motion in the House of Assembly calling for a moratorium on tariff reductions for the automotive and textile, clothing and footwear industries until those industries were in a position to withstand any such reductions. At that time members of the current Government (the then Opposition) were most reluctant to support the motion that I moved. The current Premier finally got around to debating the motion some six months after I moved it in 1993, and spent his allocated time extolling the virtues of Dr Hewson's Fightback policy, which was being put by the Federal Liberal Party at the election in 1993.

I had occasion to remind the Premier of his previous statements on the textile, clothing and footwear industries earlier this week. Back in the Senate in 1991 the current Premier had stated that the textile, clothing and footwear sector was an excellent example of exactly what is wrong with Australia. He went on to say that, just as the textile, clothing and footwear sector must recognise that we have moved on, Australians, after many decades of refusing to accept the inevitable, must face up to the fact that in areas where we discover that we cannot be internationally competi-

tive we should not waste the time and effort of manufacturing locally. Following a challenge issued by the Leader of the Opposition, I am pleased to say that the Premier has agreed to go to Canberra and lobby on behalf of the textile, clothing and footwear industries.

I only hope that the Premier has genuinely changed his mind on the question of protection for these industries and that his efforts to fight for the TCF industries are sincere. The Premier will certainly need to be persuasive to convince the Commonwealth that his earlier views were incorrect and that the jobs of 5 000 South Australians that are now under threat from this decision need protection.

During this debate on the future of the textile, clothing and footwear industries, we need to consider the role of the Productivity Commission and the Industry Commission that it has absorbed. The Leader of the Opposition has called for the Commission to justify its existence, and I certainly concur with those arguments.

It reminded me of an excellent paper that was put out by the former Deputy Premier of this State, Hugh Hudson, who himself was an eminent economist. In July 1982, Hugh Hudson wrote a paper for the then Australian Industry Development Association, which was a forerunner of the Business Council, and I think his comments are worth remembering in this debate. He stated:

> There now seems to be a tendency for economists to ignore distributional questions and concentrate solely on the argument for efficiency. Some economists would like to believe that they can give advice on 'scientific' matters such as production and efficiency without sullying themselves with judgments on distributional matters—let the latter be left to the politicians! The IAC certainly exhibits these characteristics.

That then became the IC, and the Productivity Commission really has not changed in the intervening 15 years. He continued:

> The weight of opinion of market economists within the IAC and the public service generally almost implies the view that, unless the advice given to Ministers concentrates on matters of efficiency, the latter will be excessively influenced by distributional questions and progress towards the removal of market imperfections will not occur. This approach implies that what advisers do is 'professional' or 'scientific', while Ministers in varying any recommendations are responding purely to political pressures. Everyone knows, or assumes, that 'politics is a dirty business'.
>
> There is no real basis for this dichotomy as the implied acceptance of an altered distribution of income is just as 'sullied' as any decision taken by Ministers. There is an excellent case for asserting that, as distributional issues are always involved in any decision on protection, a Cabinet in taking them into account is behaving more 'honestly' than expert advisers who ignore distributional issues in the process of advising Ministers.

That is the real problem that we have at the moment with the Industry Commission: it looks purely at a narrow economic framework; it does not look at the wider issues, and it also ignores, as Hugh Hudson points out, the second best theory of economics which declares most of its thinking invalid, anyway.

## PETS

**The Hon. CAROLINE SCHAEFER:** Sir, I was somewhat disappointed to hear you refer to this session as 'matters of importance' rather than 'matters of interest', because I would have to admit that what I intend to speak about falls into the latter category rather than the former. Many people in this Chamber know that I grew up some 40 kilometres from the nearest town. I did the first six years of my schooling by correspondence and my sister next in age to me is five years younger than me. It would therefore be very easy to imagine that I grew up in isolation and had a very lonely childhood. However, nothing could be farther from the truth. I had a group of extremely loyal playmates who were always with me and accompanied me everywhere, and they were the farm dogs and a couple of horses.

**The Hon. T.G. Roberts:** How many years correspondence did they do?

**The Hon. CAROLINE SCHAEFER:** About the same, and they read nearly as well as I do. It has been long said that many of my best friends are animals, which is, I guess, what fitted me to the career that I have chosen in later life. I was therefore interested to receive an advisory pamphlet from the Petcare Association yesterday, which I am sure a number of other people also received. I thought it was of interest to note some of the statistics provided by this association. The pamphlet states that Australia has the highest incidence of pet ownership per household in the world, with more than 66 per cent of all Australian households owning one or more pets.

The pamphlet also states that, along with sport, pets are the most satisfying and rewarding part of people's lives, and certainly those of us who have adult children will probably agree with those sentiments. The pamphlet talks about the statistics of pet ownership in this State and in Australia and states that 68 per cent of Australia's 6.6 million households own a pet. Most households have a dog but 45 per cent have cats and 25 per cent have birds. Typically—and again this comes as no surprise to me—the major carer of a pet is female, married with children, living in the suburbs and most likely to be employed. Of people who do not currently own a pet, 53 per cent would like to own one in the future. According to this group, considerable health benefits are associated with pet ownership.

Compared with non-pet owners people who own pets typically visit the doctor less, have lower cholesterol and blood pressure, recover more quickly from illness and surgery, deal better with stressful situations and are less likely to report feeling lonely. However, for those of us who are accused of economic rationalism, there is a huge economic benefit to pet ownership within the State. Pet ownership contributes to around $2.2 billion in the economy and employs over 30 000 people. The annual national health cost saving resulting from pet owners visiting the doctor less is estimated to be up to $1.8 billion and, somewhat staggeringly, the annual expenditure on pet care in South Australia is $140 million on dogs, $83 million on cats and $12 million on other pets, totalling $235 million per annum.

As I said, I have always derived great pleasure from the company of animals, and I must say that, in many cases, I have also found them to be more intelligent than some of my human companions. I was staggered by the statistics offered by this little pamphlet, and I will look with considerably more interest at the amount of money that my household spends in looking after those friends.

## STATE ECONOMY

**The Hon. T.G. ROBERTS:** Looks like another leaked document has hit the deck here in the Legislative Council! The matter I raise is probably a matter of urgency more so than either importance or interest, and that is the projection of South Australia's economy in Federal terms as a regional economy. South Australia's economy has slowed down and is stalling, which is concerning the Government and all its movers and shakers, and it is certainly concerning the

Opposition and people in the community who are trying to make ends meet. It is also a struggle in regional areas. I would like to raise some views and ideas for growth that might assist regional economies, but they are slightly out of kilter with normal economic theory and analysis.

Some role would have to be played by Federal, State and local governments to put together packages for regional Government to encourage the decentralisation of the larger cities. It is no secret that Sydney is exploding and will probably implode after the Olympic Games; and Melbourne is reaching a position where the extremities are so difficult to cross that in some areas of Melbourne manufacturers, suppliers, retailers and wholesalers will not request delivery of goods after 10 o'clock or 10.30 a.m. because they know that they will not receive any deliveries during the day because traversing the city is so difficult.

Sydney has almost got to a point where no orders are taken after 4 o'clock or 5 o'clock the previous evening for the same reason. Unless some attention is paid to the regional growth areas—and South Australia is now classified as a region rather than a State, which makes the regions even more marginalised—some form of corrective measures must be taken to encourage Sydneysiders and perhaps Melburnians to look at regions as prospective destinations for retirement or semi-retirement.

With technology it is possible to set up some industries in towns or regions by using the networks which the Hon. Legh Davis discussed and which are being developed in library services. If regional areas were prepared to put onto the Internet and other networking services a list of the benefits of living in regional areas and to list the recreational, sporting, employment and real estate business opportunities and price of housing and land packages in their areas for city consumption, I would think that some people in Sydney would be interested in selling their house for, say, $350 000 (which in a lot of cases is a high to medium range price of housing in Sydney) and buying a similar house in South Australia which could be bought for about $120 000 or $130 000. At the middle range of their life at 55 to 60 years they could bank the difference of $250 000 and would have disposable income, whereas at the moment most of their capital is locked up in assets. They would have disposable income to enjoy life as they move toward permanent retirement.

Regional areas might be able to put information onto computers that could be circulated through CD ROMs in libraries, where people could look at information on real estate interests, golf courses, bowling club and other sporting facilities, recreational arts, and environmental tourism areas which are part of enjoying quality of life. If that information could be sold in those city locations I am sure we could interest a lot of people in moving. If something is not done and there is no intervention, the eastern states will soak up all Federal taxation revenue, and smaller States such as South Australia and Tasmania will be the net losers out of the whole economic rationalist argument which the Federal Government is rabidly pushing in Canberra and which is accepted by all State Governments. Unless market forces intervene, South Australia will have trouble getting off the deck.

## ASSET MANAGEMENT

**The Hon. J.F. STEFANI:** Today I wish to speak about the Exit Report recently released by the Asset Management Task Force. The report is a damning indictment of the irresponsible management decisions taken by the former Labor Government. The period of the Labor Administration during the 1980s and l990s has placed a continuing burden on the South Australian community to service a huge debt for many more years to come. This ongoing burden limits our opportunities for growth and seriously restricts the Government's ability to spend money on essential community services.

The Asset Management Task Force was set up by the Liberal Government in 1994. One of its functions was to oversee the sales program of a number of State owned assets in order to reduce the State debt, which in 1994 was $8.5 billion, or nearly $6 000 for every person living in South Australia. It is important for me to mention that, under the legacy of Labor, our annual interest bill on the total public sector debt was running at $2.48 million per day. That equates to $50 per month for every person residing in our State.

The report by the Asset Management Task Force has identified that, throughout its three year brief, widespread problems, including commercial practices and investment decisions that defied normal business logic, were uncovered in various government business entities. The report also identified a reckless approach to the management and risks associated with many State owned assets. Many of these investment decisions today stand as a testimony to the bizarre and ill-conceived approach by the former Labor Government, and are a constant reminder to all taxpayers of Labor's legacy.

Despite the lack of expertise and the shallow understanding of the market, our State owned insurer, SCIC, continued to write financial risk insurance that covered a wide range of items including trains, planes and cherry pickers. Insurance contracts written up by SGIC involved guaranteeing a minimum residual value of the assets at the end of a lease agreement. Such high risk and long term insurance policies were written around the period when taxpayers had already provided a $350 million bail-out for 333 Collins Street and when the Bannon Government was uttering assurances that the State finances were on track. One such residual value insurance contract involved two Lockheed L10-11 Tristar passenger jets. That contract ultimately resulted in a loss to South Australian taxpayers of $3.3 million.

Under Labor we were involved in underwriting huge overseas re-insurance contracts that resulted in a significant financial exposure for taxpayers. For example, SGIC entered into a re-insurance policy in the United States that resulted in taxpayers incurring a liability of some $30 million when Hurricane Andrew went through Florida. The liabilities incurred under this insurance contract were only recently resolved by the Asset Management Task Force, which achieved some $8 million in savings to taxpayers. But the folly and financial mismanagement of the Labor Government do not end there.

In its wisdom, the Labor Government decided to invest in a breeding project to develop South African goats and cattle for the Australian and export markets. Using taxpayers' funds, we took up shares in joint ventures for a goat and cattle breeding operation that also included an off-shore property. Compliments of the South Australian taxpayers, more than 40 African goats were imported and kept on a two year holiday at the South Australian quarantine station. By the end of this holiday, the taxpayers had contributed some $4.47 million to the goat breeding venture, of which $4 million was capital, which has already been written-off.

As a result of the goat breeding venture, losses incurred by the taxpayers exceed $4 million.

In addition to the goat breeding venture, the South Australian taxpayers also contributed $3.4 million towards a cattle partnership that incurred book losses of $2.6 million. The saga goes on. As members would well know, I raised issues and questions about the State Clothing Corporation. Many of those questions remain unanswered. However, we do know that excessive amounts of stocks have been held, including 30 years' supply of epaulettes for police uniforms and 120 different sizes of trousers. These are but a few examples of the unsound commercial practices that have been incurred through Labor's rule. Its financial mismanagement has sadly saddled the South Australian community with the burden of a huge debt and an interest bill for many more years to come.

## ARTS SA

**The Hon. ANNE LEVY:** In speaking in this matters of interest debate I want to say a few words first about the reorganisation of Arts SA which was announced by the Minister 10 days ago. This reorganisation has occurred without any consultation whatsoever. Obviously, the reorganisation within the department is entirely a matter for the Chief Executive Officer and I make no criticism or comment in that regard. But, as far as the interaction with the arts community is concerned, I have a number of concerns which are shared by many in the arts community. It has been announced that the seven peer group assessment advisory committees will all be abolished and replaced by three committees only: one dealing with arts leadership, professional development and emerging artists; one dealing with cultural tourism and export; and one dealing with the development of new commissions, events and festivals. Members of the arts community do not know to whom they will be applying for the regular recurrent grants on which so many organisations depend.

I refer to organisations such as Doppio Teatro, Junction Theatre, Vital Statistics, the Jam Factory, the Crafts Council—and the list is a very long one—which have received regular recurrent funding from the Government. Admittedly, many of these have had their money cut in recent years, but they rely considerably on these funds for their existence and do not know where they will be able to apply.

I am particularly concerned that what the Minister has announced is if not abandonment at least considerable dilution of the principle of peer group assessment. She has long maintained that she supports peer group assessment, but the three committees that she will be setting up—numbers on each as yet unknown—as she indicated in the Estimates Committee will not consist entirely of peer artists to do a peer group assessment of any artistic projects that are put before them.

The Minister said quite clearly that business people would be involved in these committees and, while they may not be a majority, there is no way that that could be called peer group assessment if people who are not peers of the artists concerned are involved in evaluating their work. This is an abandonment of the principle of peer group assessment and is very much to be deplored. As I understand it, a similar approach has been adopted in Victoria, and from several sources I have heard that in Victoria it is causing absolute chaos in the arts community. People do not know where they are, whom to apply to for grants, what sort of money will be awarded or what criteria are involved. The arts community in Victoria is in complete uproar, and many judge this change to be absolutely disastrous.

It is sad to see that we will be following Victoria and adopting a similar approach, perhaps with the same disastrous consequences for the level of artistic activity in this State. We have a very proud record in terms of creative endeavour by the many arts people in this State. It would be a crying shame and a legacy that one would hope this Government would not wish to have if by this reorganisation and disruption it destroys a lot of the creative activity which occurs in this State.

## NATIONAL COMPETITION POLICY

**The Hon. R.D. LAWSON:** I refer to national competition policy, which is one of the high watermarks of economic rationalism. Economic rationalism itself has become a term of abuse. Many political isms are merely catch cries, for example, fascism, socialism, capitalism or communism—convenient labels for attacking one's opponents. On the other hand, they can also be seen as convenient masks to which one's supporters might pin their colours.

But economic rationalism is not a politically popular label. Its opponents have painted it as a code for job losses and reduced services. On the other hand, its supporters see it as removing barriers, breaking down privileges, opening opportunities, improving efficiencies and reducing costs and red tape. They see economically rational decisions as the key to survival in global markets and as the only path to prosperity for all people, especially those who are presently disadvantaged.

The opponents of economic rationalism claim that the rationalists, in their attempts to save the community, will probably ruin it, and they see the cure as worse than the disease. The Hawke-Keating Labor Government showed that economic rationalism is not the exclusive province of conservative ideologues. For all their catchcries of Thatcherism and Reaganomics, Australian Labor Party Governments have been the most effective instruments of rationalist policies in recent times.

As I said at the outset, national competition policy is the high watermark of economic rationalism, and the purpose of my comment today is to put on the record some aspects of that policy. Although we have been bombarded with discussion papers, overviews, analyses and reports on competition policy, I suspect that very few people in Australia—and in that I include members of Parliament and Ministers—really know what we are saying when we mouth the words 'competition policy' or 'Hilmer'.

Briefly, the concept was born—as many good things are—in Adelaide at a special Premiers conference in November 1991. It was born out of concerns that the Federal Trade Practices Act did not apply to State Governments or to their instrumentalities, nor did it apply to any business which was not a corporation and which traded solely within the boundaries of one State. Professor Fred Hilmer was appointed to Chair a review of the Trade Practices Act, and he reported to the Council of Australian Governments in February 1994. It is fair to say that his recommendations went far beyond the simple review of the Trade Practices Act, although it included it.

In consequence, there has been a plethora of agreements and other legislation. In April 1995 there were three agreements which came under the aegis of the Commonwealth

Competition Policy Reform Act which was passed in that year. Those agreements included the Conduct Code Agreement, the Competitions Principles Agreement and the agreement to implement the national policy and related reforms.

In consequence, the South Australian Parliament passed the Competition Policy Reform (South Australia) Act 1996. That came into force in July 1996. It applies provisions of the Trade Practices Act as law of the State of South Australia and it is in itself a highly complex piece of legislation which I suspect few would understand.

The Australian Competition and Consumer Commission has been established, as has the National Competition Council. The State of South Australia will, under the agreements before referred to, receive in 1994 terms $1 billion over the term of the agreement. Community service obligations have not been entirely overlooked in the competition policy, and there is a recognition that the promotion of economic efficiency may result in detriment to the community, especially regional communities. The complexity of it all requires better understanding for all members of Parliament.

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## UNFAIR DISMISSALS

**The Hon. R.R. ROBERTS:** I move:

That the regulations under the Industrial and Employee Relations Act 1994 concerning unfair dismissals, made on 29 May 1997 and laid on the table of this Council on 3 June 1997, be disallowed.

It was my intention today to try to push this disallowance motion through to its conclusion. I had two reasons for doing that: first, it is clearly an unfair situation which denies South Australian employees the right to have an unfair dismissal case heard. These regulations take away the rights of present South Australians who have been sacked unfairly not from having their case determined in their favour—

*The Hon. R.D. Lawson interjecting:*

**The Hon. R.R. ROBERTS:** I am surprised that the Hon. Mr Lawson has already started to interject. With his legal background I should have thought he would be a great supporter of people's right to have their cases heard and the question of natural justice. However, sitting in this Chamber for a couple of years has obviously changed those high ideals that he held as a young, up and coming lawyer.

The other reason that I would have liked this matter to be pursued to its conclusion today is that the Government knows the argument and the Hon. Mr Elliott also knows the history of the contempt of this Government for the process of Parliament. The proclamation of these regulations is another clear indication of the contempt which the Cabinet of this Government places on the operations of the Legislative Council, and I am certain that if the Hon. Mr Elliott had agreed today to force this motion through to its conclusion tomorrow the Executive Government would have reinstated the regulations.

It is so bad because we know that this comes as part of a package. Following its standard format, the Government has relied on section 10AA(2) of the Subordinate Legislation Act 1978 under which the Minister, Dean Brown, states:

I certify that in my opinion it is necessary or appropriate that the following regulations come into operation as set out below.

That was on the day on which they were gazetted, namely, 29 May. The fault with that is that the Minister does not have to satisfy anyone. He merely has to say that, in his opinion, the regulations should come into operation.

The day before the gazettal of these regulations, the Minister introduced into the other place the Industrial and Employee Relations (Harmonisation) Amendment Bill. He is emulating the actions of his Federal colleagues with whom he wants to harmonise. He wants to harmonise with a Government which does not want 16 year olds to get the dole, which wants 16 year olds to work for the dole, and which wants 19 year olds to become the sole responsibility of their parents. Not happy with that, and given that these young people may well be exploited in the limited employment opportunities that they may encounter and may be unfairly dismissed, the Minister has moved these regulations; yet he has introduced a Bill to deal with such issues which will go through the parliamentary process of public scrutiny and proper assessment to give members of the Opposition and the Australian Democrats the opportunity, as is our constitutional right, to view the legislation.

The Federal Government does not to harmonise on this issue, either, because when the Federal Minister (Mr Reith) took these matters before Federal Parliament the Democrats, along with other minor Parties and the Opposition, rightly said that they believed that it was an abhorrent situation where workers who allege that they have been unfairly dismissed will be stopped from having their case heard before the courts because they have become a small business. At least the Federal Minister had the decency to redraft the Bill and bring it back.

This Government would not harmonise with that and take the proper course, so it has introduced its own Bill, the Industrial Employee Relations (Harmonisation) Bill. Having introduced that Bill, why did the Government find it necessary to introduce regulations which one would expect to be part of the discussions in respect of that Bill? The Government said that the citation of the industrial employee relations general regulations 1994 would be the principal regulations. So, the Government has put it in two different areas. It is a pea and thimble trick, but the effect of that trick is to deny young South Australians who have potentially been unfairly dismissed the right to have their case heard, and I am talking about Australia, the country that claims to give people a fair go.

The Employee Relations (Harmonisation) Bill is an extensive Bill and it is to be debated today in the other House. If this motion were to go through to its conclusion today, in anticipation of the Democrats emulating the legitimate actions of their Federal colleagues, these regulations could have been stopped today, and I would have gone through the Bill chapter and verse. If in the unlikely event that substantial alterations are made to that Bill in another place, we will go over the same ground. As there is no opportunity available to me to conclude this debate today, I will later expand on many of the measures in the Bill and I will have more to say on the unfairness of introducing these regulations.

On other occasions, for example, on the regulations concerning water and sewerage rates for Housing Trust tenants and—one of my favourite subjects—recreational net fishing, when this Chamber rejected those regulations as it was constitutionally entitled to do, they were put back, and I have no doubt that that would happen again tomorrow in this respect. While these regulations are in place, South Australians are being denied natural justice in having what

they allege is an unfair situation heard by an independent arbiter.

I intend to make a lengthy contribution after the other place has debated the Bill. My colleague Mr Clarke will also move in that place for the disallowance of the regulations. We have a busy schedule today, so for those reasons only—not for a lack of passion on the subject—I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

**STEFANI, Hon. J.F., CENSURE**

Adjourned debate on motion of Hon. P. Nocella:

That the Hon. J.F. Stefani be censured for his involvement in the deliberate falsification and widespread distribution of the report by the Hon. P. Nocella on his study tour encompassing Italy, the former Yugoslav Republic of Macedonia and Greece from 11 August to 21 September 1996 (as required by rule No. 15 of the Members of Parliament Travel Entitlement Rules) in an attempt to defame the Hon. P. Nocella as a member of this Council.

(Continued from 4 June. Page 1513.)

**The Hon. R.I. LUCAS (Minister for Education and Children's Services):** I rise to strongly oppose the motion that has been moved by the Hon. Mr Nocella in relation to this very important issue. At the outset, I want to say that, since elected in 1988 to this Chamber, the Hon. Julian Stefani has served this Chamber, this Parliament and the South Australian community with distinction, and I will certainly make further reference to that in my contribution this afternoon.

As a friend and a colleague of the Hon. Julian Stefani, I know of no harder worker in Parliament, amongst all members, for the causes, organisations and associations with which the Hon. Mr Stefani is associated. He works very hard for those organisations, associations and individuals and serves them with distinction.

A former member of this Chamber, the Hon. Mario Feleppa, a political opponent of mine, also came from the Australian-Italian community and he was a member for whom I had much admiration and respect and, as I indicated in our valedictories some little time ago, some friendship. What I respected in the Hon. Mario Feleppa was very similar to what I respect in the work of the Hon. Julian Stefani—a willingness to put politics behind them and to serve their communities without descending and stooping to the petty politicking that sadly we are seeing at the moment.

When one looks back on our time in the Parliament—and I have been in Parliament for nearly 15 years now—it has really only been in the past 12 months or so that, sadly, we have seen this outbreak of division amongst members from the broader ethnic communities represented in this Parliament.

**The Hon. T.G. Roberts:** So it's all Paolo's fault?

**The Hon. R.I. LUCAS:** That is interesting: the Hon. Terry Roberts says, 'It's all Paolo's fault.'

*The Hon. A.J. Redford interjecting:*

**The Hon. R.I. LUCAS:** I think he just did make the point. The point I am making is that for many years we had members in this Chamber such as the Hon. Mario Feleppa and the Hon. Julian Stefani who, whilst they had their political differences, were able to conduct themselves in such a manner that we did not see any of this outbreak of tension and division. This can be in existence throughout the whole South Australian community, as we know, so I do not make particular reference to just the ethnic communities within South Australia. We have not seen those sorts of outbreaks in all my time in Parliament, and that is to the credit of the Hon. Julian Stefani and the Hon. Mario Feleppa as well. Yet in the past six to 12 months, as the Hon. Terry Roberts very aptly notes, since the Hon. Paolo Nocella has entered this Chamber, sadly we have seen the outbreak of petty politicking and attempts to divide our ethnic communities and friends within this Parliament and within the broader South Australian community as well.

What has changed in the past 12 months that was not in existence before? The Hon. Julian Stefani has been in Parliament since 1988 and he has continued to serve South Australian communities with distinction in exactly the same way as when he first entered the Parliament. What has changed is that the Hon. Mario Feleppa has left this Chamber and he has been replaced by the Hon. Paolo Nocella, who, sadly, as I indicated last week and again this week, has been quite intent for his own purposes—and I do not understand why—in sowing the seeds of division within this Parliament and amongst our friends in the ethnic communities in South Australia.

*Members interjecting:*

**The Hon. R.I. LUCAS:** I will be addressing that, because that issue was raised by the Deputy Leader of the Opposition when he was looking at this motion. The Deputy Leader of the Opposition is having his own problems at this stage as a result of yesterday's outburst, but enough of that for the moment. The Deputy Leader of the Opposition said:

In this case we have to believe whether the Hon. Paolo Nocella or the Hon. Julian Stefani is the credible person.

The Deputy Leader of the Opposition then went on in a vain attempt to try to attack the integrity and credibility of the Hon. Julian Stefani whilst, at the same time, trying to defend the credibility of the Hon. Paolo Nocella. The Deputy Leader of the Opposition in his contribution has established the benchmark that members of this Chamber must make a judgment about the credibility—

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** The Deputy Leader of the Opposition said:

One has to go back a long way. In this case we have to believe—

the Deputy Leader of the Opposition is backing away from his statements now—

whether the Hon. Paolo Nocella or the Hon. Julian Stefani is the credible person.

That is the contribution of the Deputy Leader of the Opposition. I will be addressing that critical question that the Deputy Leader has put when he put his particular perspective on the issue.

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** The Deputy Leader spent 1½ hours discussing it.

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** The Deputy Leader has conceded that I can spend 1½ hours, thank you.

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** Just you wait and see.

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** Have a word to Paul Holloway—

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order! The Hon. Ron Roberts had a fair go. I think that the Minister for Education should be given a fair go.

**The Hon. R.I. LUCAS:** Thank you, Mr President, for your protection. As I have said, I am referring to the provoca-

tive comments made during this debate by both the Hon. Mr Nocella and the Hon. Ron Roberts attacking the integrity and the credibility of my friend and colleague the Hon. Julian Stefani, which is a substantive part of this motion. As the Hon. Ron Roberts has said, we now must establish the credibility of the two gentlemen concerned in relation to this issue. As we have seen in relation to this issue—

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order! The Hon. Ron Roberts, I think you ought to take a valium and sit back.

**The Hon. R.I. LUCAS:** Mr President, thank you for your protection again. I do not intend to traverse all the sordid and tawdry detail of the activities of the Hon. Paolo Nocella in relation to the sad events relating to Mr Alex Gardini which I indicated to this Chamber yesterday.

*The Hon. P. Nocella interjecting:*

**The Hon. R.I. LUCAS:** We are talking about your credibility as opposed to Mr Stefani's. Here we have a man, a member of the Legislative Council, who will deliberately—and if the Standing Orders would allow me I would say tell lies—tell untruths about what Mr Gardini was meant to have said on 5EBI FM when Mr Gardini said quite clearly he did not say that. The transcript indicated quite clearly that he did not. We are talking about credibility—

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** The Hon. Ron Roberts spent 1½ hours talking about the credibility of the Hon. Paolo Nocella as opposed to the Hon. Julian Stefani. The Hon. Paolo Nocella listened in silence to that character assassination of the Hon. Julian Stefani during that contribution but the honourable member does not like it now when the tawdry details of his own activities relating to Mr Gardini, the political dossiers and the stories that are now being put around about this Government and the Premier and Minister keeping dossiers on the Vietnamese community and a range of other communities as well are being mentioned. The Hon. Mr Nocella knows that he has soiled and bloodied hands in relation to these issues. The honourable member does not like it now when his own integrity and credibility is severely questioned by the facts in relation to claims made by Mr Gardini and other people in relation to those issues.

When one looks at the credibility of Mr Nocella we need to look at the details of the dossier claims that have been made by him and Mr Rann and the claims that he has made about a person who cannot defend himself in this Chamber, Mr Gardini, who is personally distressed at these unfair attacks upon him. When one looks at the speeches made by the Hon. Mr Nocella and the Hon. Mr Roberts, they claim that the Hon. Julian Stefani at the Glendi festival this year was handing out copies of these documents.

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** And the Hon. Ron Roberts again purports to push these untruths—I will not use the word 'lies' but 'untruths'—during this debate. The Hon. Julian Stefani, unlike the Hon. Mr Nocella and the Hon. Mr Roberts, actually produced third party, independent evidence by way of statutory declaration from the Glendi denying these false claims made by the Hon. Mr Nocella and the Hon. Ron Roberts and revealed them for the purveyors of untruths that they know they are. There are four independent statutory declarations that dismiss the claims being made by the Hon. Mr Nocella and the Hon. Ron Roberts. And they have no evidence at all: no statutory declarations; no names; no third party witness accounts; not even circumstantial or hearsay evidence that they could put to this Chamber for members to make a judgment about the claim that they are making—which is a substantial part of this motion—that this material was being distributed at the Glendi in such a way as to defame the Hon. Mr Nocella. The Hon. Ron Roberts said in this Chamber:

> The Hon. Julian Stefani was observed at the Glendi Festival but he was not giving copies to people who requested them: he was observed at the Glendi Festival with an armful, saying, 'Here, take one of these and tell me what you think.' He was distributing malicious and deliberately falsified information to create division. . .

The Hon. Ron Roberts and the Hon. Paolo Nocella have been challenged to provide evidence of those claims, to provide one witness to those claims, and they cannot, because they made up the claims. They are not telling the truth. They know that they are not telling the truth in relation to this issue. They are making up the stories. The Hon. Ron Roberts is making up the stories. He knows that he is not telling the truth. He will stand in this Chamber and say anything, as evidenced by that claim, which he knows is not true and which he has no witness to back up, yet there are four witnesses with statutory declarations, including, as I understand it, the Chairman of the Glendi Festival and other prominent Glendi Festival leaders, who deny that. The Hon. Ron Roberts in all his foolishness still cannot understand that.

He still cannot understand that if he is going to make a claim he needs to provide some evidence. If he wants to convince other members of this Chamber of the accuracy of these claims, he needs to provide evidence. It is not good enough for the Hon. Ron Roberts to stand up and say: 'I am a know-all and I know all, and I know what occurred at the Glendi Festival.' It is not good enough.

*The Hon. A.J. Redford interjecting:*

**The Hon. R.I. LUCAS:** He wasn't there. It is not good enough for the honourable member to make these claims: he needs to be able to provide some evidence.

**The Hon. R.R. Roberts:** He's admitted it.

**The Hon. A.J. Redford:** That's a lie. He never admitted distributing anything at the Glendi Festival.

**The Hon. CAROLYN PICKLES:** On a point of order, Sir, the Hon. Mr Redford referred to the Hon. Mr Roberts as a liar. I ask him to apologise and withdraw that remark.

**The PRESIDENT:** I did not hear it, but it is unparliamentary and I will ask the honourable member if he would withdraw and apologise.

**The Hon. A.J. REDFORD:** I apologise and withdraw. The Hon. Ron Roberts said that the honourable member was at Glendi—

*Members interjecting:*

**The PRESIDENT:** Order! That is sufficient.

**The Hon. R.I. LUCAS:** What the Hon. Angus Redford was saying, if it is not part of the *Hansard* record, is that the Hon. Ron Roberts was claiming that the Hon. Julian Stefani had conceded that he had gone to Glendi and handed out armfuls of documents to people at the Glendi. That is just not true, and the Deputy Leader of the Opposition is a purveyor of untruths. He is just making up stories in an attempt to defend the indefensible on this issue. If one wants to look at the credibility of the Hon. Mr Nocella and does not look at his history prior to coming into Parliament—which is long and chequered and I do not intend to traverse it at the moment—his parliamentary record on the issues that I have indicated is a very sorry and tawdry one, a record of which he should be ashamed.

As I said yesterday, I can only hope that he has the courage to apologise to Mr Gardini for the false claims that

he has made. As I indicated earlier I want to place on the public record my admiration for the work that the Hon. Julian Stefani has done. As the Hon. Ron Roberts did in seeking to carry another vote in the impending battle for the deputy leadership of the Party from the Hon. Paolo Nocella—

*An honourable member interjecting:*

**The Hon. R.I. LUCAS:** We all know what the Hon. Ron Roberts is up to at the moment. Whilst he is in here working on Paolo, Paul Holloway is out there working on Robyn Geraghty, Lea Stevens and the female members of the Caucus, after yesterday's exhibition. And I think that he has more support there than the Hon. Ron Roberts has in here.

The Hon. Julian Stefani's record indicates that in 1981 he was awarded an OAM for services to the community and to the two Italian earthquake appeals of which, as most members would know, he was a prime mover. In 1984 he was awarded a Cavaliere (Knight) in the Order of Merit of the Italian Republic for services to the Italian community. In 1990 he was the South Australian Italian of the Year. In 1996 he was given a gold medal and certificate of merit from the Chamber of Commerce of Vicenza (Italy) for distinguished achievements as a migrant to Australia. In 1996 he was made a Commendatore (Knight Commander) in the Order of Merit of the Italian Republic, for services to the Italo-Australian community. And in 1996 he was given the Pan-Macedonian Federation of Australia Philip of Macedon award for services to the Greek community in Australia.

As it was obviously a key issue in relation to members of the Greek-Australian community in South Australia, I want to refer to a letter to Julian Stefani dated May of this year from Mr George Constantis, the Ambassador of Greece. I quote in part from the letter as follows:

> Dear Julian,
>
> You have always been ready to extend your substantial support and encouragement to furthering the overall bilateral relationship between Australia and Greece, and to bring the peoples of South Australia and Greece closer together, sparing no effort and spending so much of your valuable time to this end. During the last four years, tangible progress has been achieved in cementing the bilateral bonds through exchanges of high level visits and other initiatives between the Governments of South Australia and Greece, thanks to a large extent to your untiring personal efforts.

That is only one quote, but there are many others that I could cite to indicate the credibility and integrity that the Hon. Julian Stefani has established in the South Australian community and within the Greek-South Australian community as well, in terms of trying to work together in fostering cooperation and collaboration.

As I said, members who have been here for some time need only go back over the history to realise that this division that has come into this Chamber has come about only in the past six to 12 months. The Hon. Julian Stefani has been working with the Greek/South Australian community for years and it has been only since the Hon. Paolo Nocella entered this Chamber that, sadly, we have seen the division and petty politicking as evidenced by this motion before us.

I turn to the controversial trip made by the Hon. Paolo Nocella to a number of overseas countries. The trip was controversial right from the word 'go' because the Hon. Paolo Nocella, in trying to get some publicity for his trip, provided to members of the media a copy of a card sent to him from the Hon. Mike Rann which was signed, 'Looking forward to our honeymoon in Rome.' As one Labor colleague of the Hon. Paolo Nocella said to me at the time, 'I couldn't believe how stupid Paolo was,' and then that colleague of Paolo said, 'But, on reflection, I am not surprised.' That was not a remark made by a Liberal member of Parliament but a member of his own Caucus who, having read the story, said to me, 'Mike Rann's gone troppo at Paolo in Roma' because of the publicity generated by this card. That person was extraordinarily angry at the Hon. Paolo Nocella in terms of the publicity he was seeking to garner for this particular trip.

The nonsense of the contribution made by the Hon. Mr Nocella is indicated by the very premise of the drafting of the motion. The Hon. Mr Nocella must be the first person ever to have claimed to have been defamed because someone circulated the report that he wrote of his trip. The Hon. Mr Nocella is asking members in this Chamber to try to believe that, because someone has distributed his own words, he has been defamed. Because someone has distributed the Hon. Mr Nocella's his own words, he is asking members in this Chamber to believe that he has been defamed. The Hon. Julian Stefani has indicated that he distributed five full copies of his report—

**The Hon. J.F. Stefani:** Five.

**The Hon. R.I. LUCAS:** Five full copies, the Hon. Mr Stefani tells me, of his report were distributed to people who wanted the full copy of the report and he distributed two copies of a section of the report that were specifically requested by friends of the Hon. Mr Stefani. The Hon. Mr Stefani was distributing full copies of the report written by the Hon. Mr Nocella to those people who wanted full copies, and the Hon. Mr Stefani indicated in his contribution—and no member has been able to disprove it—that for those two people who asked for just one section of the report he distributed only that section of the report. Those who wanted the lot got the lot; those who wanted a section of the report got a section of the report.

No member in this Chamber has been able to provide one skerrick of evidence to disprove that fact. First, not only has no member been able to produce a third party witness to the claims that the Hon. Mr Stefani was distributing copies of the report at the Glendi festival—no witnesses and no evidence—but, secondly, no member has been able to produce any evidence to disprove the statement of fact given by the Hon. Mr Stefani that he distributed full copies to those who wanted full copies and a section of the report to those people who specifically requested a section of the report that related to that particular issue. If any member in this Chamber has any evidence, let them stand up and say so this afternoon. I challenge members of the Labor Party—

**The Hon. L.H. Davis:** They are running on empty.

**The Hon. R.I. LUCAS:** Exactly. I challenge any member of the Opposition before the Hon. Sandra Kanck speaks to determine this issue, because she will want to hear all the evidence on both sides; she will be able to sort out the political rhetoric from both sides of this Chamber and get down to the facts of this issue. The Hon. Sandra Kanck and the Hon. Michael Elliott must determine what third party evidence exists to confirm these claims about the Glendi festival. On one side we have four statutory declarations from prominent members of the Greek/Australian community and, on the other side, nothing. On one side we have a statement that copies of the full report were being distributed to members of the community who wanted full copies and those who asked for a section were being given copies of that section. On the other side no evidence has been given to disprove that claim from the Hon. Mr Stefani.

I challenge the Hon. Mr Ron Roberts, the Hon. Mr Terry Roberts, the Hon. Carolyn Pickles and the Hon. Trevor

Crothers, or any Labor member in this Chamber, to stand up this afternoon with any evidence before this matter is concluded to provide some sort of opposition to the claims that are being made by the Hon. Mr—

**The Hon. L.H. Davis:** Suddenly Sherlock Holmes has gone missing.

**The Hon. R.I. LUCAS:** We will wait and see with bated breath whether any evidence is produced by members of the Labor Party before we look at a vote on this issue. The Hon. Mr Nocella's speech also falsely and incorrectly attributes statements to the Hon. Julian Stefani in the Adelaide *Advertiser*, which are now being denied by not only the Hon. Julian Stefani but, I understand, the journalist concerned. The Hon. Mr Nocella shrugs his shoulders and says, 'Oh well, so what?' The Hon. Mr Nocella does not worry about the truth of it. We now disprove another key claim that he makes as part of his evidence and, now that it has been denied by the journalist and the member, the Hon. Paolo Nocella shrugs his shoulders, throws his arms to one side, and says, 'Oh well, so what?' It is all right for the Hon. Mr Nocella to stand up and make these extraordinary claims, and when he is caught out telling untruths, as he has been on three occasions in relation to this issue, he shrugs—

**The Hon. L.H. Davis:** He is the prince of porkies.

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** —his shoulders and says, 'Well, what's the matter? It doesn't matter.' When members make their judgment about this issue, they need to look at what claims have been made by the Hon. Mr Nocella and what claims have been made by the Hon. Ron Roberts and then look at the evidence.

*Members interjecting:*

**The Hon. R.I. LUCAS:** I think we have enough select committees at the moment, TC.

*Members interjecting:*

**The Hon. R.I. LUCAS:** If Labor and the Democrats want a select committee we will not be supporting it. If a lame dog was walking past Parliament House you lot would want a select committee into why it was doing so. Both of the Labor contributions in this Council have not provided a skerrick of evidence in support of their claims—not a skerrick. It is now time for other members to stand up and see whether they can provide any evidence to support the claims that have been made by the Hon. Paolo Nocella.

As I said at the outset, if this were to be a judgment, as the Hon. Ron Roberts said, about the credibility of two individuals, the Hons Paolo Nocella and Julian Stefani, then it is a lay down misère. The evidence that I produced in relation to the Hon. Julian Stefani and his fine record in this Chamber makes it quite clear that the Hon. Julian Stefani's credibility and integrity is beyond reproach.

I make this plea now to the Deputy Leader of the Australian Democrats, the Hon. Sandra Kanck. In any of these debates a lot of political rhetoric goes back and forth, but the Hon. Sandra Kanck will be able to sift that political rhetoric from both sides. I put two questions to the Hon. Sandra Kanck and to members. The first can be only peripherally addressed in this debate. Why is it that in the past six to 12 months we have seen this outbreak of division in this Chamber? I have a view on that, and I think that is an issue for all members to judge. Secondly, the Hon. Mr Nocella has made a series of claims: first, that the Hon. Mr Stefani was distributing this material at the Glendi. He produced no evidence and the Hon. Mr Stefani has produced statutory declarations. The Hon. Paolo Nocella made claims about what the Hon. Julian Stefani said in the *Advertiser*. The Hon. Julian Stefani has denied that, the journalist has denied it and now the Hon. Paolo Nocella says it does not really matter. We understand that, in his way, he has conceded the error and the claims he made there.

Thirdly, we have the contention in this motion that a person can be defamed—and that is the critical word in this motion. The Hon. Sandra Kanck is being asked to agree that, through whatever occurred, the Hon. Paolo Nocella was being defamed by a distribution of his own words. Even if you wanted to accept the nonsense that the Labor Party has put in relation to this issue, it is not an issue of defamation. You might not like it, even if you are right—and we are not accepting that—but it is not an issue of defamation and, if it were, the Hon. Mr Nocella may choose other avenues if he wants to pursue a matter of defamation. It is not an issue for this Chamber to be making judgments in relation to defamation.

If the honourable member wants to complain about the activities of another member let him do so, but members are being asked to support a motion that suggests that distributing full copies of his report and a partial copy to people who wanted it was an act defaming a particular member. That is a legal and political nonsense, and I urge the Hon. Sandra Kanck and all other members in this Chamber as they consider their position not to accept the politics of this motion because, if we go down this path, the next step will be another motion condemning the Hon. Mr Nocella for attributing to Mr Gardini a series of statements on 5EBI FM about which Mr Gardini is personally distressed, of which he has asked for a retraction and on which the Hon. Mr Nocella has patently and consistently refused to offer an apology, even for those statements which the transcript shows not to be true.

I do not want to go down a path where we are condemning or censuring members on these delicate issues in relation to the sensitivities of our ethnic communities here in South Australia. The Hon. Mr Nocella has raised this issue and I believe it ought to be consigned to the rubbish bin. It ought to be defeated because if it is passed we will potentially see in this Chamber an outbreak of further motions only serving to foster divisions in ethnic communities in South Australia. As a Minister in this Government, as an avowed supporter of multiculturalism and multicultural education within our schools in South Australia, I say that this is not the sort of leadership that this Parliament should be setting the South Australian community. This Parliament should not be moving motions along these lines. If you have a problem, sort it out with the honourable member somewhere else outside this Chamber. Do not use the parliamentary process to foster division and dispute within the ethnic communities of South Australia. Once this process has started you do not know where it will end, but I assure you that it will only be to the cost and detriment of our ethnic communities and ethnic friends here in South Australia.

**The Hon. A.J. REDFORD:** I oppose this motion and will make a number of general comments. Recently with the Hon. Paolo Nocella I attended a function in the Yugoslav Republic of Macedonia and met some delightful people there, and it is a little disappointing that that difficult ethnic issue has surfaced in this way. Whilst I am probably out of step with the rest of the Government on this, I strongly support their cause and the difficulties that that community experiences with the recognition of the name 'Macedonia' and of the extraordinary hardships they went through some 40 and 50

years ago. It is important that we bring some clear thinking to this whole issue and look specifically at the motion that we are dealing with here today.

The Hon. Paolo Nocella has moved a motion that my parliamentary colleague the Hon. Julian Stefani be censured for his involvement in this matter. I looked up what is meant by 'censure' and it means condemning as wrong, or showing strong disapproval. The motion goes on and provides: 'for his involvement in. . . deliberate falsification'. The dictionary defines this as a carefully thought out and formed action in relation to something that is not true or wrong. The motion continues, 'and widespread distribution' (which I think everybody here would understand, even the Hon. Ron Roberts) 'of the report by the Hon. Paolo Nocella on his Study Tour encompassing Italy, the former Yugoslav Republic of Macedonia and Greece from 11 August to 21 September 1996. . . in an attempt to defame the Hon. Paolo Nocella. . . ' I will come back to what is meant by that later in this contribution.

I note that by way of interjection the Hon. Sandra Kanck set herself up as judge and jury in this, so one would hope that she listens to this contribution—and I note that she is not listening. Allegations were made that, first, Mr Nocella presented a report on 20 December in relation to a trip he made to those three areas in August and September 1996, which report was presented to you, Mr President, and filed in the Parliamentary Library. I do not think anybody would disagree with that being fact. He also tabled the original report and also another version, which was allegedly distributed to various people within the Greek community. He alleged that Mr Stefani had deliberately attempted to generate conflict and inter-ethnic division by distorting and transforming his report for base purposes. He also alleged that Mr Stefani wanted people to think that Mr Nocella's sole destination was the former Yugoslav Republic of Macedonia.

He went on to allege that Mr Stefani replaced some material with extraneous information obtained from newspaper articles. He stated that it was the Hon. Mr Stefani's intent to defame the Hon. Paolo Nocella in the eyes of the community (and by that I would assume the Greek community), that he distributed documents to the Greek community, handing them out at the Glendi festival, that people believed they got a full copy of the report instead of an edited version—or, as the Hon. Paolo Nocella described it, a forgery—and finally that the Hon. Mr Stefani admitted certain of these matters to journalists on 28 May 1997, first that he edited the report and, secondly, that he did so to save on photocopying.

In response, the Hon. Julian Stefani said—and in that regard for the purposes of this contribution I propose to deal only with what the honourable member said on matters particular to the motion before this place—the following: first, that there is a matter of dispute between the Greek Macedonians and the Yugoslav Macedonians and that this is an issue that has divided these two communities in South Australia for a considerable period of time; secondly, that the Hon. Michael Rann has taken sides in relation to that and has supported the Greek Macedonians in relation to that issue; thirdly, that the report had three sections—an Italian section, a section on the former Yugoslav republic of Macedonia, and a section on Greece; fourthly, that the report denigrated the South Australian Government delegation to Italy and the translators that accompanied the delegation, and in that regard Mr Stefani says that this report was purely, other than for the requirements under the travel rules, a political document; fifthly, that the Greek people who were distributed with the edited report were on the Greek leg of the trip and knew of the Greek aspects of the report; sixthly, that the Greeks who had the edited report were interested only in the Yugoslav—

*The Hon. R.R. Roberts interjecting:*

**The Hon. A.J. REDFORD:** Mr President, I wonder whether the Hon. George Weatherill could arrange another telephone call for the Hon. Ron Roberts so that we do not have to listen to his banal interjections—republic of Macedonia aspect of the Hon. Paolo Nocella's report, because they knew (because they were present) what occurred on the Greek leg of his trip. Seventhly, he said that parliamentary travel reports are public documents and are entitled to become part of the public domain in any political dispute or issue; eighthly, he provided five full copies of the report to the Greek community upon their request; ninthly, that in relation to the aspect of the report concerning the former Yugoslav republic of Macedonia it was inflammatory; tenthly, that others from the Greek community requested extracts from the former Yugoslav republic of Macedonian because they were concerned and they wanted that part of the report (and I quote the Hon. Julian Stefani) 'exactly as it has been written'.

The Hon. Mr Stefani conceded that some parts of the report he distributed—and when I am talking about that distribution I mean that which went to those who requested the edited version—are underlined and in the column there were handwritten comments, but it was clear that it was the Hon. Julian Stefani's handwriting and that the document was one that he had looked at. He denied specifically distributing anything at the Glendi Festival and, indeed, some statutory declarations were provided. One was from Mr Jim Tsagouris, who solemnly and sincerely declared, as Chairman of the Glendi Festival Board, that he was present. He received invited guests; he saw the Hon. Julian Stefani and his wife amongst the invited guests; and he had no recollection of the Hon. Julian Stefani arriving with an armful of papers or distributing papers among the invited guests at the Glendi Festival. Secondly, there was a statutory declaration from Gerry Karidis who said he was present and that he did not see him with any documents.

*The Hon. R.R. Roberts interjecting:*

**The Hon. A.J. REDFORD:** For the benefit of the Hon. Ron Roberts—because he is between telephone calls and I notice his banal little voice in the background—he said:

> I, Gerry Karidis, of [his address] do solemnly and sincerely declare that I was present at the 1997 Glendi Festival and met the Hon. Julian Stefani MLC. I did not see him with any documents, nor did I see him distribute any printed material to anyone at the Glendi Festival. I make this solemn declaration by virtue of the Statutory Declarations Act 1959 as amended and subject to the penalties provided by the Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular. Declared at Adelaide, 3 June 1997.

We then have Peter Paleologus, who says:

> I am the President of the Pan Macedonian Association of South Australia; that I was in attendance at the Glendi Festival held in March this year; that I met the Hon. Julian Stefani MLC who was also at the Glendi Festival. I did not see him with any documents under his arm, nor did I see him distribute any document to anyone at the Glendi Festival.

Finally, we have a statutory declaration—

*The Hon. R.R. Roberts interjecting:*

**The Hon. A.J. REDFORD:** I will come to the Hon. Ron Roberts's interjection in a minute, as banal as it is. We have a declaration from Peter Demourtzidis, who says:

> I attended the Glendi Festival 1997. I met the Hon. Julian Stefani MLC who was also at the Glendi Festival. I did not see the Hon. Julian Stefani having an armful of documents at the Glendi Festival. I did not see him distribute any document at anyone at the Glendi Festival.

The Hon. Ron Roberts says that he might have done it outside their purview. One could imagine, with all the people that the Labor Party would have out there, the picture of the Hon. Julian Stefani furtively sneaking in and around tents and Greek people and hiding his documents so that this range of people would not see them. The Hon. Ron Roberts's interjection in this matter does not warrant any comment whatsoever and should be treated with the contempt that it deserves.

*Members interjecting:*

**The PRESIDENT:** Order! Repeated interjections are not allowed under Standing Orders. I ask members to desist for a while.

**The Hon. A.J. REDFORD:** I thank you for your protection, Mr President. This is an important issue, and one would hope that it will not be dealt with on Party lines and that there will be some analysis of what has taken place. At the end of the day in relation to the allegation concerning the distribution of material at the Glendi Festival, the Hon. Mr Stefani's material has been supported by statutory declarations. Indeed, one cannot help but notice the absence of statutory declarations in making some of these allegations on the part of the Hon. Paolo Nocella.

Finally—and this is a very important fact—the Hon. Julian Stefani told this place that the document that was tabled by the Hon. Paolo Nocella in this place was in fact edited. He indicated that the pages and various material were rearranged. Indeed, I have sat back and listened to contributions from members opposite and I have not heard any statement or assertion from members opposite that that is not the case. At the end of the day we are left at the very least, from the Hon. Julian Stefani's point of view, in a state of uncertainty, and it seems to me that the fact that we were given notice that this would be brought on and voted on today seems to be quite stupid and does none of us any good.

The final thing that really concerns me is that this document is defamatory. I endorse the comments of the Hon. Robert Lucas, the Leader of the Government in this place, when he asked, 'How on earth can a man be defamed by his own document?'

The allegation is that the Hon. Julian Stefani has gone around with the honourable member's very own document and distributed it. The Hon. Paolo Nocella sneaked into this place, took a holier-than-thou attitude and moved a motion censuring the Hon. Julian Stefani under Standing Orders, which he is entitled to do and which he has a right to do. I have no objection to his doing that but what I find an absolute disgrace on the honourable member's part is that after he moved the motion, on 3 June 1997 he wrote a letter to the Hon. Julian Stefani, seeking an apology from the honourable member, stating:

> Anything less will be unacceptable to me, and if you have not complied with my request within 14 days you can expect defamation proceedings to be issued against you without further notice. Meanwhile I reserve my rights with respect to any legal action which arises from your behaviour.

The man stands utterly condemned for coming in here and using this place to advance his own legal cause. If he had the guts, he would issue his proceedings, go to court and leave this place out of such scummy little behaviour. The fact is that the honourable member has abused this place and the rules and the privileges that this place attracts to each of us as members.

If he had taken action prior to moving the motion, it would have been ruled out of order as *sub judice*. However, he snuck around trying to play both ends against the middle, and it is disgraceful conduct on his part. If the honourable member wants to have his legal action, let him have it. He should not come into this place and drive all of us down by playing such games. This is an absolutely ridiculous political stunt.

The Hon. Paolo Nocella was caught out yesterday playing games in Question Time and he was caught out when he tabled a document, trying to trick us into thinking that it was the document that was distributed by the Hon. Julian Stefani. He was caught out making allegations about what happened at the Glendi Festival, and now he has been caught out sending letters claiming damages, in total breach of any Westminster tradition.

If he wants to go to court, he should do so. He should not come in here and seek to have it both ways. He should not think he can go to court and say that he has carried a motion in here because it will not make any difference down there. Unlike the Hon. Ron Roberts and the Leader of the Opposition, the court will look at the evidence and assess the honourable member's conduct after he has been subjected to cross-examination. Unlike this place, where all a Labor member has to do is get his numbers rounded up in Caucus, the court will require corroborating evidence. It will require a couple of witnesses. Indeed, it will even require some substantiation that the honourable member had a reputation in the first place, before he can get any damages.

The honourable member has come into this place to try to defame the Hon. Julian Stefani and to play games, so he deserves to be hoist with his own petard. Whatever happens with the vote, whatever the Hon. Sandra Kanck does, this process has been held up as a farce. The honourable member has made this place into a farce. He should get out of this place, let the motion be adjourned, get down to court and have it out down there, which is the appropriate place, and let us get on with governing the State.

**The PRESIDENT:** Order! Before I call the Hon. Sandra Kanck, I point out that it is a difficult situation and I ask that all members read Standing Order 181. The Hon. Ron Roberts and a couple of other members should especially do so because it is important that we give everyone a fair and reasonable opportunity to put their point of view.

**The Hon. SANDRA KANCK:** Since this motion was moved, I have met with both the Hon. Julian Stefani and the Hon. Paolo Nocella. I have gone through *Hansard*, I have read extra material on the Macedonian situation and I have also compared the reports in the original form as lodged by the Hon. Mr Nocella with Parliament and the version which was distributed by the Hon. Mr Stefani.

This has not been an easy matter for the Democrats to come to a conclusion on because, whichever way we go, we will be presented to the ethnic community as favouring one side or the other in this issue of Macedonia, and that is certainly not my intention.

*The Hon. L.H. Davis interjecting:*

**The PRESIDENT:** Order!

**The Hon. SANDRA KANCK:** I make clear that in the final analysis this motion is not about who deserves to use the names or the symbols of Macedonia. It is about the actions of one member of this Chamber in altering the report of another member of this Chamber before issuing it to an outside group. By this stage all members are fairly familiar with the two documents that I am talking about.

The Hon. Mr Stefani has not denied that he altered the original version, and he has placed on the record his reasons for doing so. I have one problem only with the motion, and that is the word 'widespread', because I have not heard solid evidence to indicate that the Hon. Mr Stefani distributed it in a widespread manner. He certainly admitting to faxing it out, but that is hardly widespread, so therefore I move:

That the word 'widespread' be deleted from the motion.

The Hon. Mr Stefani told Parliament that the people to whom he sent the edited version knew that it was an edited version. However, I wonder whether he considered that it could be distributed more widely than the people to whom he sent it and how those people might interpret it if they did not know that it was an edited version. I have attempted to place myself in the position of someone who might have received that report two months ago before this became public knowledge, not knowing that it had been edited.

As we all know, the cover of the report was altered to read 'Report on the study tour encompassing the former Yugoslav Republic of Macedonia'. If I had received that report two months ago, I could only have assumed that the Hon. Mr Nocella had visited no other place during his tour. There is no way from reading that document that I would have been able to deduce that Mr Nocella visited a number of countries in that region. The dates on the front cover, which stated that the study tour took place from 11 August to 21 September 1996, were blanked out, so if I had been reading Mr Stefani's version two months ago there would have been no reference points to cause me to ask what he was doing on the other days.

Further to this, the page numbering had been removed in Mr Stefani's version, so there would have been no way that I would have been able to assess that pages were missing. This is where I think the falsification emerges because by lack of information, information which had been deliberately removed, a false view is able to emerge. It is clear to me that any person reading Mr Stefani's version, without being informed that he had edited it, would have had no reason to question its completeness and its authenticity. The conclusion would have had to be that Mr Nocella visited only one country and, if I was someone who held a grudge against that country, I might be more than a bit annoyed and want to know why he visited just that one country and why he did not try to get more than one side of the story.

That is where defamation creeps in. When the Hon. Mr Redford was speaking and he raised the issue of defamation, I noted that the Hon. Terry Roberts used the words 'by omission', and that is exactly what I see; that is, the defamation occurs by omission of the facts. Clearly, a lot of time would have been spent in doing the necessary physical cut and paste job to get Mr Stefani's version looking as it eventually did. I have difficulty understanding why so much effort was put into this. A very important question for me is, if those people who had requested the report knew they were getting extracts, why was it necessary to present the extracts as if they were the entire report? For instance, the selected pages could have been sent off without the page numbers being whited out, without details of the other country having been whited out on the cover and without details of the dates having been whited out.

The Hon. Mr Stefani in speaking against the motion made some accusations and inferences about the Hon. Mr Nocella. From those allegations I certainly gained the impression that Mr Stefani does not like Mr Nocella, but it did not answer that important question concerning why it was necessary to give the impression that the document was the complete document. It is a pity that Mr Stefani chose to make those allegations about Mr Nocella because it simply clouded the issue. The Hon. Mr Lucas has spoken about the high-standing with which Mr Stefani is held in the ethnic community, and I have no doubt about that. When I visited Mr Stefani in his office I was very impressed by the assorted awards that he has been given by different groups within the ethnic community but, in the end, it does not assist me in making a decision on this particular motion.

What concerns me about this whole issue, however, is that it tends to bring multiculturalism into disrepute. If any of us have listened carefully to what Pauline Hanson and her supporters are saying, multiculturalism is one of the things that they fear, and one of the things that they fear about multiculturalism is that the ethnic conflicts of other countries will be brought into Australia. Unfortunately, what has happened around this particular issue and all the subsequent mud-slinging have given substance to the concerns of the Hanson supporters and it provides ammunition to those people who want to portray multiculturalism in a very poor light. I have speculated on why so much effort was made to get the Stefani version looking like it was the complete report. Mr Stefani is an intelligent man, so one would have expected him to anticipate the wider distribution of the report in the form that he faxed it out, albeit by other people, and surely he would have realised that people who did not know the background to the report in that form would think that it was the complete report.

The best construction that I can put on Mr Stefani's actions is that he was being naive and had not thought through the possible ramifications. The worst constructions have already been outlined by the Opposition. We cannot make our decisions based on the personalities involved. We might attempt to ascribe motivation to Mr Stefani and each one of us might be wrong, so guessing about his motivation will not assist us. So, in the end, I have had to ask myself two basic questions. First, is it appropriate for one member of Parliament to take the report of another member of Parliament, remove parts of it for whatever reason and then allow it to circulate when it could well be misinterpreted? Secondly, if I was to vote against the censure motion, what precedent would it establish for the treatment of any or all study reports that are submitted by MPs to this Parliament?

The Democrats believe that the answers to these questions are that, first, it is not appropriate to doctor another member's report and, secondly, that it would be setting unfortunate precedents if we were to vote against this motion. I have said that we cannot make decisions based on Macedonian history, on allegations about Mr Nocella, the motivation of Mr Stefani or guessing intentions, and neither should this be a Party-political thing. We should be only looking at the actions and their impact. Yesterday in Question Time the Minister for Education took the Hon. Mr Nocella to task. The Minister accused Mr Nocella of doing the same things as Mr Nocella had accused Mr Stefani of doing. The Minister described the action as a 'very selective and despicable act of editing'. The

Minister used that word 'despicable' more than once and other words on the *Hansard* record when I looked at it included 'outrageous', 'malicious' and 'devious'.

The Minister claimed that what Mr Nocella had done 'does him no credit as a member of this Legislative Council', and he suggested that it brought shame not only on himself but on other members of the Opposition. Knowing that I was going to be speaking on this motion today, I was more than interested to hear the Minister's comments and the backbench cheer squad loudly supporting the Hon. Mr Lucas's comments with their own interjections. Clearly, the Government considers the distribution by one member of selectively edited material of another member to be unacceptable, although Government members no doubt will vote on this motion to protect one of their own. I think it is a pity that Party loyalty will prevent a unanimous vote on this motion because that is what it should be.

It gives me no joy to support this censure motion, which sadly has been the basis for Party politicking. As I said earlier, I think this whole sorry episode has damaged multiculturalism and the sooner we can put this matter behind us the better.

**The Hon. P. NOCELLA:** Let me say at the outset that I am not particularly happy at the prospect of having to take up this Council's valuable time by responding to the insignificant and irrelevant trivia raised by the Hon. Julian Stefani in his vain attempt at defending the indefensible. However, I have no option but to respond to the many varied and ludicrous accusations that he has made in order to hide the resultant obfuscation, even though their relevance to the motion before us is basically non-existent. At this point I will again remind members what the motion was. I moved that the Hon. Mr Stefani be censured for his involvement in the deliberate falsification and widespread distribution of my study tour report in an attempt to defame me as a member of this Council. This was my original motion and let me say that, if any honourable member of this Council was at any time in any doubt concerning the Hon. Julian Stefani's intent to defame me, by now it must be perfectly obvious to everyone that it was and it remains the sole reason for doing what he did.

I will now deal with a matter that has been raised by way of motion about the widespread nature of the distribution. I will support the amendment, but let me just say that the copies that the Hon. Julian Stefani distributed went well beyond the five, three, half a dozen copies, whatever it was that he gave out, because, as I noted last week when I met with the leadership of the Pan-Macedonian Association, the copy that went to its President was distributed and photocopied for the members of that federation and for the different bodies that make up that peak organisation. So, it is no good hiding behind the fact that four or five copies, whatever it is from different statements, had been given out. Those copies went a lot further.

The Hon. Julian Stefani has treated us to a litany of lies, wild, unsubstantiated allegations, innuendo and vilification, all of which is totally unsupported by any documentation or at least by any documentation tabled in the Council and capable of being scrutinised, even though I repeatedly invited him to do so. Instead he pulls out pieces of paper, waves them over his head, refuses to table them and expects us to believe that this is the unassailable body of evidence—

**The Hon. R.I. LUCAS:** On a point of order, I must admit that I have not entirely been in agreement with recent rulings on this matter, Sir, but you have ruled consistently that an honourable member who refers to another member as having told lies must withdraw and apologise. In his contribution the Hon. Paolo Nocella has just accused the Hon. Julian Stefani of telling lies, and he used that word deliberately. Based on your rulings and precedents I would ask you to ask the Hon. Mr Nocella not only to withdraw but also to apologise to the Hon. Mr Stefani.

**The PRESIDENT:** I have in the past ruled that way and I think that is fair enough. The point of order has been taken, and I will ask the Hon. Paolo Nocella not to—

**The Hon. T. CROTHERS:** On a point of order, Sir, are you giving the Hon. Paolo Nocella a direction from the Chair to withdraw that word?

**The PRESIDENT:** Order! I am asking the Hon. Paolo Nocella—

**The Hon. T. CROTHERS:** Are you giving him a direction, Sir, to withdraw?

**The PRESIDENT:** Indeed I am.

**The Hon. P. NOCELLA:** In deference to you, I will withdraw and apologise, Mr President. The Hon. Julian Stefani would never dare repeat these accusations outside this Parliament because he would be only too aware of the consequences of doing so. I now return to various points the honourable member raised, but let me just say at this point that I fully sympathise with the Hon. Sandra Kanck who, quite rightly, early in the piece expressed frustration at the inanity and irrelevance of the honourable member's numerous and wide-ranging red herrings.

The first point he raised, in his typically confused and incomplete fashion, referred to telephone calls made by me to Italy when I was Chairman of the Multicultural and Ethnic Affairs Commission. There is nothing even remotely sinister about this. What he refers to are details of telephone calls made by me to Italy in 1993. Such details were provided to the honourable member in the normal course of events and in response to a parliamentary question.

These calls were directly related to the preparation and follow-up for the visit that the then Minister for Agriculture and Minister assisting the Premier in multicultural affairs (Terry Groom) made to Italy in June 1993. I was asked to make all necessary arrangements and to accompany the Minister to provide professional interpreting and translating assistance as well as to provide general support. There is nothing new in this: it has happened before and has happened since, and I am sure that even as we speak the Office of Multicultural and Ethnic Affairs goes on providing this kind of support, which of course involves from time to time intense bursts of communication both before and after the trip.

I am very proud of my term as Chairman and Chief Executive of the Multicultural and Ethnic Affairs Commission. I have served under Premier Lynn Arnold and Premier Dean Brown and have received public praise from both of them for my work. But the question must be asked: how is this relevant to the motion and does it justify his falsifying my report of a study tour that took place at the end of 1996?

The second point raised by the honourable member is equally irrelevant and can be motivated only by his relentless desire to smear me. The honourable member referred to outstanding debts relating to reimbursement of expenditure incurred and claimed against the former administration under my presidency of the Italian Chamber of Commerce and Industry. I have been associated with the Italian Chamber of Commerce and Industry in Adelaide since coming to Adelaide in 1980, first as a councillor, then as President for

a term of six years. I resigned in 1991 in order to become Chairman of the Multicultural and Ethnic Affairs Commission. At that time I was honoured by being made a life member of that chamber.

However, there was one outstanding money matter at the time I left. This related to a trade fair exhibition in Naples, but I understand that all matters relating to this debt were settled in full and to the satisfaction of both the Italian Chamber of Commerce and Industry and the overseas firm involved, without any involvement on my part. Again, the question is: is this relevant and does it justify his falsifying my report?

I now refer to the charge of using unparliamentary language. The language in question was in fact so parliamentary that it is actually a quotation from former Premier Don Dunstan who, referring to Premier Playford speaking on electoral redistribution, said that this, coming from him, was 'like words of love from the lips of a harlot'. Had the honourable member done his research he would have discovered that, far from being unparliamentary, it was in fact quite a witty and erudite quotation from one of our more respected elder statesmen. Again the question is: is this relevant and does it justify his falsifying my report?

As for any media attention that my study tour may have generated, that is quite clearly something over which none of us in here has any control. I fail to see how the honourable member can attribute any wrongdoing to me simply on the basis of some rather sensational media headlines. Again, I ask: does this make his action less reprehensible? As to the contents of my report, the honourable member asked where the account of my meeting with the Pope went. It went exactly the same way as the honourable member's meeting with the Czech Minister for Industry in Prague last month: it did not eventuate; so the account is not there, since my report contains only factual information.

I took a great deal of care in the preparation of my report. It was my first report to this Council and I wanted it to be a document with substance and with new and updated information; a document that could be useful for study or research but also a valid addition to the database of this Council. I stand by my report and believe that it compares extremely well with any other such document in the Council library, in terms of both content and presentation. However, since this debacle, out of curiosity I have gone to the library and examined the honourable member's 1995 report, and I find it to be an incredible load of hot air and meaningless waffle, devoid of any substance whatsoever, and I would even go so far as to say that it is a disgrace to the very shelves it sits on.

We are then told by the honourable member that I hosted a dinner at which a journalist from the *Advertiser* was present. That, of course, is true. There were a number of guests, including the President of the Italian Coordinating Committee and the Consul for Italy. But then, this is not at all unusual, since I often have dinner guests at home and the guest list is usually as varied as the menu. Again the question must be: does it justify his falsifying my report? My report was compiled in full observance of all the rules that govern the use of the parliamentary travel allowance, and any quantification in terms of monetary benefit to the State from my study tour is a result of media interpretation. However, I am very surprised at the honourable member's inability to perceive the benefits that could be derived by this State from its fulfilling the request for an order of lead concentrate that my visit to Skopje generated.

The honourable member should also realise that no-one can buy 3 000 tonnes of high-specification lead concentrate off the shelf. This is not the way in which the mining industry works. Contracts for long-term supply of any mineral products are negotiated long before any production eventuates. I am continuing my inquiries with various mining companies potentially capable of filling this order and, if the honourable member thinks that the sum of $1.8 million per month to this State is something to be sneezed at, then the honourable member's desire to defame me even overrides any sense of loyalty he has to the State he is supposed to be serving. But again the question should be asked: is this relevant and does it justify his falsifying my report?

I turn to the observations the Hon. Julian Stefani makes about the section of my report that refers to the practice of the current South Australian Government of not using qualified professional South Australian-based interpreters on its overseas mission. I stand by the remarks made in my report, as I have done on countless occasions in the past when speaking on this very subject at meetings, seminars, conferences and conventions. I made these remarks not only as an interpreter and translator qualified at a professional level but as someone who has managed the largest interpreting and translating operation in this State, and who has also served as a former Chairman of the National Authority for the Accreditation of Translators and Interpreters (NAATI).

I lament this practice of Governments, of all persuasions—both State and Federal—a sentiment for which I have the full support of the entire interpreting and translating industry which is, as a consequence of this practice, deprived of precious opportunities for professional development. It is my belief that it should be mandatory, as well as being well justified in terms of its cost, to include qualified professional South Australian-based interpreters in every official delegation from this State visiting non-English speaking countries. When the Hon. Julian Stefani, whose qualifications in this field are non-existent, says that he 'does not think that this is a credible report', he is doing his own credibility no good at all. Of course, this is consistent with the overall tenor of his contribution but, again, is this relevant and does it justify his falsifying my report?

I now move on to other topics. The Hon. Julian Stefani's comments in relation to the consequences of the Federal Government cuts to the foreign affair's budget would make him, quite possibly, the only person in Australia who does not know what is happening to our overseas posts. The matter has been debated in the media for months and it is a well known fact that the reduction of funds has resulted in cuts to positions in overseas posts, such as the cultural attaché's position at the Australian Embassy in Rome, as well as the closure of two overseas posts in Europe, namely, Copenhagen and Malta. Mr Gordon Miller, First Secretary of the Australian Embassy in Rome, was so concerned about the gravity of the situation that he told me that he would seek a transfer to another post because of the huge increase in his workload due solely to the Federal cuts. I reiterate: is this relevant and does it justify him falsifying my report?

At various stages the honourable member made comments on aspects of the content of my report and supplements his own interpretation in a futile attempt to prove that this somehow gives him the right to falsify my report. The content of my report cannot be and is not in dispute. Unlike the honourable member, I believe in truthful and accurate reporting. The remarks, comments and observations expressed in my report are invariably attributed to the people who

made them in the various destinations and are not merely expressions of my own opinions. I did not have to agree or disagree with any of the views they expressed. It was simply my duty to report them accurately and faithfully, and account to the Council for the activities I undertook.

This is typically exemplified in the case of the Italia-Australia Chamber of Commerce in Rome. When the Leader of the Opposition and I met with its management committee we were told in no uncertain terms that they were disappointed that the then Premier Dean Brown and his fellow South Australian delegates did not seek to meet with them. My report contains an accurate account of their views—views to which they are perfectly entitled, and the question must be asked once again: is this relevant and does it justify him falsifying my report?

I will not waste the time of the Council by dealing with the more ludicrous parts of the honourable member's contribution, especially concerning the point at which he waved grotesque comic strips, cartoons, or whatever, which he refused to table. He proceeded to inform us that this was a distorted map of Italy and, as such, was a very divisive document for which I was somehow responsible. I will not waste the time of the Council. I will conclude by saying this—

*The Hon. J.F. Stefani interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. NOCELLA:** Document A is my original, official report to this Council. As such, it had to be delivered within a certain number of days. It has been presented to you, Mr President, and is held by the Clerk, who keeps a register of those people who wish to consult. In other words, it is not your ordinary piece of paper that you can throw around and do whatever you like with it. Document B is the altered copy bearing the imprint, at the top of the page, of the Hon. Julian Stefani's fax machine, including number, date and time of transmission. Document A consists of a front cover, 28 pages and seven attachments. Document B consists of a front cover, 12 pages and two attachments.

We heard a lot about the front cover of Document B, which was substantially altered by means of white-ing out parts of the itinerary and the dates, for the purpose of implying that my sole destination, as shown on Document B, was Fyrom. Nothing on Document B suggests that this is part of a report. When the Leader of the Government in the Council yesterday showed a document which somehow implied that I was up to some tricks, there was clear indication that it was an extract.

In addition, Document B shows a different format and contains extraneous material, such as comments in the honourable member's own writing and a photocopy of a newspaper article. The alterations are so substantial that the two documents bear little real resemblance to one another, yet Document B was passed off as my full and original report. The many recipients of this document were given no indication that it was a highly doctored version of Document A. Nowhere in Document B was there any indication that this was not the original version. Is it any wonder that when the Pan-Macedonian Association wrote to the Leader of the Opposition and sought to meet with him in order to express their concerns, it was only once the Leader of the Opposition showed them the original documents that they realised that they had been the victim of a cynical scam.

Since then I have also met with the leadership of the Pan-Macedonian Association at their request and was told that they do not condone for one moment the actions of the honourable member in supplying them with his own version of my report. And so to the claim by the honourable member that the pagination of his version of my report was presented by me incorrectly or out of the order in which he faxed it, as opposed to the order in which it was presented by me. The honourable member obviously believed that, by drawing attention to this, he would somehow appear to be the wronged party in all this. But if members stop to think a moment about his complaining, they will realise that he is only supporting my argument since his own pagination represents an additional elemental difference and an even further distortion of my original document.

Since becoming a member of this Council I have endeavoured to observe scrupulously and religiously all the rules and regulations which govern my position here, including all the rules, past and present, relating to the use of my travel entitlement.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. NOCELLA:** I tried to produce a report that would represent an appropriate return in terms of knowledge and information. I have never attempted—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. P. NOCELLA:** I have never attempted to tamper with any document in this Parliament, and I am not aware of any other members who have done so. I know of only one person: the Hon. Julian Stefani, who has deliberately gone out of his way to falsify a report and then distribute it in an attempt to defame. Why did he do it? Did he do it in the interests of truth and honesty? Did he do it in the interests of circulating accurate information? Did he do it in the interests of better community relations? No. He did it purely and simply as an exercise in cheap political point scoring with the intention of generating animosity against me and defaming me. Even yesterday, in a pathetic, last ditch attempt to make his despicable actions seem commonplace, he enlisted the aid of the Hon. Rob Lucas to attempt to portray a half page fax communication sent by me to a third party as an equivalent action, when it must have been obvious, even to the most uneducated of Education Ministers, that the clearly formed words 'this is an extract from the answer of 14 June' written on the same page established beyond any doubt the status of that document.

I again invite members to censure this man in the strongest possible terms—a man so consumed by his own hatred that he can no longer see straight. I believe that failure to do so would create a very dangerous precedent, the consequences of which would do nothing for the standing of this Council in our community. Failure to censure this man and his action would be tantamount to giving the go-ahead to him and any other member to bastardise any document, report or paper of any kind by tampering with its integrity to prove whatever they wish. Anyone could alter anyone else's document in order to corroborate, strengthen, confirm or even authenticate any point they wish regardless of the document's real purpose or meaning. From this point on, no-one will ever really be sure that what they are reading is what it purports to be. There will never again be sure proof in documents. Is that what this Council wants? I conclude my remarks by inviting members to support the motion.

Amendment carried; motion as amended carried.

## STATUTORY AUTHORITIES REVIEW COMMITTEE: STATUTORY AUTHORITIES BOARDS

Adjourned debate on motion of Hon. L.H. Davis:

That the report of the committee on boards of statutory authorities: recruitment, gender composition, remuneration and performance, be noted.

(Continued from 4 June. Page 1514.)

Motion carried.

## SPECIAL EVENTS

Order of the Day, Private Business, No. 8: Hon. R.D. Lawson to move:

That the regulations made under the Development Act 1993 concerning Special Event, made on 14 November 1996 and laid on the Table of this Council on 26 November 1996, be disallowed.

**The Hon. R.D. LAWSON:** I move:

That this Order of the Day be discharged.

Order of the Day discharged.

## CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 June. Page 1514.)

**The Hon. K.T. GRIFFIN (Attorney-General):** The Government does not support even the second reading of this Bill. It is a perennial that is raised periodically about fixed terms of Parliament, and the argument is based upon a fairly significant false premises. There is always the suggestion that speculation about elections is unhealthy and that fixed terms will stop the speculation. In any country where there are fixed terms it is quite obvious that there may not be speculation but there will be outright electioneering, spread over about 18 months. If you look at the American congressional and presidential system you will find that campaigning starts for the presidency through the primaries at least 12 months in advance of the actual date of the presidential election, and the same problem occurs with congressional elections.

We went through all this in the late 1980s, when the then Attorney-General (Hon. C.J. Sumner) on behalf of the Labor Government brought in a Bill that was extensively debated in relation to fixed terms. The present Constitution Act is an arrangement which all Parties except the Australian Democrats found to be acceptable, because it provides a minimum period of three years, except in circumstances where supply might be denied or where a Bill of special importance may be rejected by the Legislative Council.

In that event the Premier can advise the Governor to dissolve the House of Assembly and call for an election of that House and, if the appropriate minimum time period has expired, also for half the Legislative Council. This means that in ordinary circumstances there will be a minimum three years and then there is a year within which an incumbent Government can determine when it will wish to go to an election. From the perspective of the Liberal Party we have seen no difficulties with the way in which that has operated. Sure, when you are in Opposition you begin to wonder when the election will be called—

**The Hon. G. Weatherill:** I will just give you some dates.

**The Hon. K.T. GRIFFIN:** You will give me some dates? When you are in Opposition you keep wondering about what those dates will be. Sometimes in Opposition you can speculate and run the book which a Government cannot run, but at least there is always that concern about when the election might be held, and that has been the pattern for the last 150 years in South Australia and for longer periods in other parts of the Commonwealth. If one looks at what happens, say, in New South Wales, where there are fixed terms, one sees that everything grinds to a climax at an election and everything is geared towards an election a year or so in advance. No-one can tell me that that contributes to stability in the business, a community or in the economy. It is no more stabilising than what we have at the present time.

The uncertainty comes because there is electioneering and because no-one is sure who will win the election. That is the essence of it. It does not matter whether it is a fixed term; it does not matter whether it is the current system; or it does not matter whether it is the previous system where, if you wanted, you could have an election after one year. The fact is that it is not the uncertainty of the election date which creates some cause for concern: it is who will win the election. That is what the stock markets and the community react to.

When he introduced this Bill, the Hon. Mr Elliott made a number of comments with which I disagree and one or two which are quite erroneous. The first is that fixed terms are used in Great Britain. He quite correctly refers to the fact that there is a fixed term in the United States. I have no quarrels with that assertion, but there were no fixed terms in Great Britain in relation to the general election which we have just seen. There was speculation over a long period as to what the election date might be, but now that has been held and it has cleared the air. In some respects the stock markets and the business community have reacted favourably to that election result. Generally, they always react more confidently when the election has actually been completed. The Hon. Mr Elliott said:

It is true that, where there is the possibility of an election, both Government and Opposition Parties will start behaving somewhat differently.

Well, they do. The fact is that they will, even if there is a fixed term. If one looks at what has happened in New South Wales and at what happens in the United States, one will see that political Parties play to that election date. They always behave in a way which I do not think you will change, because there is an outcome of the election either a win or a loss. So, it is nonsense to be saying that, because there is a possibility of an election, it makes Government unmanageable or the community ungovernable; that is absolute arrant nonsense.

The Hon. Mr Elliott made an observation that Governments are less likely to make a tough decision than they perhaps need to make in case they need to call an early election. I do not think that fixing an election date will change the way in which it is perceived some Governments will act. This Government is making decisions about difficult issues, and it has been making them for the last four years. That will not change whether an election is around the corner or whether an election is three years away.

I know what the current wisdom might be in that if you have a three-year term you make your hard decisions in the first year, you consolidate in the second and you make no decisions in the third. If one looks at the way in which Governments operate, one sees that they are always faced with having to make decisions in the third year or the fourth year as the case may be; some are more difficult than others.

Whether or not there is an election environment, Governments always look to endeavour to deal with things in a way which will cause the least amount of difficulty, but they are not afraid to make decisions. We are making decisions, and we are achieving results regardless of whether or not an election is around the corner.

As some members speculate, the election may not be until the beginning of next year. It can be held during February or March. So, let us get on with the job. As members will see both from the legislative program and the decisions that have to be taken, that is what is happening.

The Hon. Mr Elliott misunderstands the role of Government, the political nature of Government and the political process when he makes the very broad generalisation, 'What happens is that the Government takes its eye off the generally understood role of governing.' That is not correct, and anyone who has had the opportunity to be in government knows that that is not correct.

I know that various bodies such as the Employees Chamber express a view that fixed terms will be seen to be an advantage to business. If one looks at the reality of what has happened in environments where there are fixed-term elections, one sees that that has not been the experience. It may be that on the other side of the fence the grass looks greener, but in reality that is not how it is played out in those jurisdictions where there are fixed terms.

So far as the Electoral Office is concerned, it does not matter whether there is a fixed term or whether the election comes on four weeks' notice. Sure, if you have a fixed term you can pace yourself in preparation for it, but the so-called disadvantages experienced by the Electoral Office are the vagaries of political life with which it has to live and are not issues which create major concern or additional cost.

I note that the Leader of the Opposition has indicated that the Opposition is now supporting this proposal, notwithstanding the present system having been worked through by the Parliament under a Labor Administration. The Leader of the Opposition has made a statement with which I disagree. She said:

> There are only one or two Ministers, such as the Attorney-General, who make an effort to maintain some sort of legislative program, although even there the Attorney has had to drop his legislation concerning unrepresented defendants because it is too controversial.

I say that that is nonsense. In relation to unrepresented defendants in the criminal justice system, we have not reintroduced that legislation so far because there are continuing discussions with the Law Society, the Bar Association and with others in respect of the best way of ensuring that, ultimately, we get decisions which deal directly with the issue of the legal representation of defendants in the criminal justice system. I have said that legislation will be reintroduced but that, because of the way in which the negotiations and discussions are occurring, I am not able to predict when that will be. It is not because of the controversial nature of it that it has not come back into the House.

If one looks at controversial decisions (and I mean controversial in the context of criticism from the Law Society and the Bar Association), one sees that the Government's decision and my subsequent action on calling tenders for the representation of defendants in the Garibaldi case should demonstrate quite clearly that the Government and I are not afraid to make controversial decisions if we believe that they are in the public interest.

Whether there is a fixed term for Parliament with elections on a fixed date or whether the current provision is maintained, it is my view that this Government, in particular—I cannot speak for others—will not resile from the need to make decisions, even if they are controversial but are in the public interest. I oppose the second reading of this Bill.

**The Hon. T.G. ROBERTS** secured the adjournment of the debate.

*[Sitting suspended from 5.56 to 7.45 p.m.]*

## DEVELOPMENT (TELECOMMUNICATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 March. Page 1101.)

**The Hon. P. HOLLOWAY:** The Opposition supports the Bill, and I congratulate the Hon. Mike Elliott on his foresight in bringing it before Parliament. It is certainly pertinent, given the comments that were made this morning by the Minister for Housing and Urban Development (Hon. Stephen Baker), but I will say more about that in a moment. The intention of this Bill is to bring telecommunications towers and overhead cables under the ambit of the State's development laws.

The background to this story is well known to most people. The former Federal Labor Government exempted telecommunications carriers from the provisions of State laws. It used its telecommunications powers under the Constitution to give an exemption to those companies until 30 June this year, two days ago. When the present Federal Government came into office 15 months ago, it extended the deadline until, I think, 30 September this year.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. P. HOLLOWAY:** That is correct; work had to be under way on telecommunications towers or overhead cables prior to 1 July. The Hon. Mike Elliott's Bill is not particularly complicated, as it brings such things as overhead cables and telecommunications towers under the Development Act so that they will be subject to the same laws as other developments.

This Bill was introduced on 5 March, four months ago, the Labor Caucus agreed to the measure, and we have been waiting for the Government to respond to it. That is why I was surprised, to say the least, to read in this morning's paper the comments of Mr Stephen Baker in relation to this matter. I would like to read into *Hansard* some of those comments. The article states:

> Mr Baker said that the 1 July transfer of telecommunications infrastructure from Federal to State jurisdiction had created a number of grey areas and left the States in a less than satisfactory position. 'Unfortunately, despite the importance of this new legislation and the very long lead-in period, the handling of this matter by the Federal Government has been extremely disappointing,' Mr Baker said. 'As a result, the State Government and local councils have no control over most of the overhead cables planned for South Australia, will have to introduce emergency regulations to cover other structures and will have to enter negotiations with telecommunications carriers and local councils over any new plans to build new towers or erect new overhead cables.'
>
> Mr Baker said SA and the other States had repeatedly sought clarification from Canberra on exactly what planning powers would be transferred to the States when the Commonwealth Telecommunications Act came into effect yesterday. 'But the Government had only received a finalised position at the death knell—leaving it

unprepared to have effective planning policies and regulations in place,' he said.

Further in the article, Mr Baker is reported as saying:

> Mobile phone towers and overhead cables—that would be proposed after the September and December deadlines—would come under the State's existing Development Act but structures such as antennae, equipment shelters and underground junction boxes would not. The State Government will have to regulate to incorporate these facilities under the Act, which is administered by local councils.

This fairly simple Bill introduced by the Hon. Mike Elliott dealt with those matters by simply defining these items as coming under the Development Act and, as the Hon. Mike Elliott made clear in his speech in March, he was suggesting that we should be preparing for the eventuality by taking such a course of action. We have been waiting for the Government to respond all this time. That is why it is rather amazing that we should now hear Stephen Baker suddenly saying that they are caught out and that they will have to deal with it by—in his words—emergency action. That is just a cover up for the fact that this Government has not done its job. Why did we not hear the Government responding to this measure some three or four months ago when it was originally introduced?

I do not think I need say much more about the Bill. I think most South Australians would agree that at least at the time of the powers being handed back to the States, which will be fairly soon, such developments as overhead cables and telecommunication towers should be brought under the Development Act so that they are subject to the same planning approvals and consultation processes as other developments. Most South Australians would certainly agree with that and it was rather unfortunate that they were ever excluded in the first place, but that is another story. Certainly the Opposition supports the Hon. Mike Elliott's Bill to bring those under the Development Act so we can have the necessary consultation and planning processes in place. We certainly support this Bill. We just wish that the Government had responded a bit sooner so that this Bill could have been passed in time to prevent some of these problems now occurring.

**The Hon. T.G. ROBERTS:** I, too, support the Bill. I will address a couple of issues. Both the Hon. Paul Holloway and the introducer of the Bill (Hon. Mike Elliott) are aware that the problem has been with us for a long time. I guess the Government would argue that communications are a Federal issue not a State issue and that the previous Labor Government left the States in a difficult position concerning administering a telecommunications Act at a Federal level through the States and with local government being the final body feeling the pressure from communities regarding where not to place communication towers.

Very few communities have put forward alternative ideas on where to place communication towers. Therefore, one can assume that there are two reasons why communication towers are not welcome. One is that they tend to be unsightly, although over a period some effort has been made to make them fit into communities. For example, some laterally thinking architects have been able to design features for the towers to fit in with the community's architecture so that they do not look as if they are what they are—technical Christmas trees that do not suit or fit in with any background at all. They have been able to design them so that the unsightly nature of the telecommunication towers does not create urban site pollution. The other reason relates to the dangers exposed by the towers in relation to, some would say, the unknown health dangers associated with the communication towers and/or the difficulties that arise by their attracting motorists' attention or being a diversion.

Most of these problems have not been discussed or overcome at a local level. Either the designer or the proponent of the tower, whether it be Telstra, Vodafone or Optus, makes a decision where to place a tower and goes right ahead and does it. What is happening now is that communities are becoming more vocal in their opposition to the placement of these towers as they become more aware of either the urban unsightliness or the health aspects associated with them. They are now starting to demand that these telecommunication towers and cables—if they want to be looked at as well—are either unsightly or unhealthy. It has been a problem for a long time. The Democrats have introduced the Bill.

I would have thought that Stephen Baker may have been able to make some more appropriate comments about the dilemma in which the Government finds itself and perhaps a more constructive plan to deal with it. Instead of that, we have shock horror, hands thrown up in the air, 'What are we going to do?' This State Government should have been able to take some responsibility for at least pulling together communities to discuss alternatives about where these communication towers could have been sited. I will make some recommendations to the Government so that it can make the operation of the legislation workable and therefore local communities can have some confidence in the fact that the Development Act and the applications of the Act suit the needs and requirements of communities: first, by setting up a community consultation process where local government, State Government, community groups and organisations can look at alternatives for siting these towers and, secondly, that some form of payment be made by these organisations to local groups and organisations perhaps rather than back to Federal bodies through licensing and other mechanisms by which they pay the Commonwealth. If the States and/or local government are to bear the ire of the electors, the residents and the communities, then there must be some compensation paid.

I know that the Bill does not deal with that. It is a Bill to amend the Development Act and to define structures, but to overcome the problem completely the State Government would be well advised to set up community consultation processes that look at the best possible, safest and environmentally friendliest site within a particular area. It would cut out much of the community disquiet that goes with people in bulldozers moving in over night, levelling sites, erecting a tower wherever they feel it ought to be and saying that they have the right because the Commonwealth legislation allows them to do it. I think we ought to be through that stage. The current struggle at Cobblers Creek appears to me to be a complicated one and everyone seems to be ducking for cover for all sorts of reasons.

*An honourable member interjecting:*

**The Hon. T.G. ROBERTS:** Yes, the local Labor Party candidate is doing a good job in that area and organising what I should have thought would be a State Government responsibility—pulling groups together to look at alternatives. That is probably a good example of where through that consultation process the community would have been able to say, 'Okay, a school is not an appropriate place for siting a tower', or in between three schools in the case of the alternative siting at Cobblers Creek. Cobblers Creek is no alternative to the unsightly, unhealthy siting of a communication tower in and around children, but an environmental monstrosity is not

the way to go either. There must be other alternative sites that could be considered for the erection of a communication tower.

It has been a long running problem about which all Governments have acted irresponsibly. Local government has been forced to accept the wills and wishes of the Commonwealth and the absentee State position, but now it is time for the three arms of Government together with those concerned people and communities to get together. The Development Act is probably one way in which the applications can be made, the discussion process achieved and the final applications processed. But that needs the goodwill of the Minister in another place. I know that the Hon. David Wotton is bending over backwards to sign whatever piece of paper is put in front of him. Whether it is the appropriate piece of paper or not, I am not too sure.

*The Hon. M.J. Elliott interjecting:*

**The Hon. T.G. ROBERTS:** That's right. He's been willing to be part of the process but he is not quite sure what the process is.

**The Hon. R.R. Roberts:** Up Cobblers Creek without a credibility.

**The Hon. T.G. ROBERTS:** As my colleague says, up Cobblers Creek without a paddle and, in this case, he is up Cobblers Creek without a Development Act or a feather to fly with. But he certainly has a bulldozed site with no construction there. It might be okay for the Opposition to make light of it, but it is a real concern in the community that cabling and communications towers are being rolled out in defiance of those local communities' needs and requirements, and the worrying thing is that the health aspects of communications towers are not being debated by Governments that should be collating the best possible international scientific evidence and relaying that back to communities in a responsible way so that responsible decisions can be made about siting.

If decisions are not being made on the best possible scientific evidence, then the emotive arguments take over. If there are no dangers with the siting of those constructions, let that be stated as a result of communications experts, health experts and scientists who are dealing with communications and the waves that are part of the process, the microwaves and others. If they are not harmful, then communities ought to be made aware of that. Most communities are operating on the basis that communications towers are dangerous if there is exposure to children, particularly, for long periods of time and in close proximity. They are operating on the basis of the conservative position that if you do not have the best possible scientific evidence that is agreed to in the scientific community then you act conservatively and say, 'Yes, there are dangers associated with them and we do not want them in our back yard.'

And why should we blame those people who are opposed to the siting of them in or around their homes or schools? So, the Opposition supports the Bill. I would like to see the State Government put together a conciliatory negotiating process within communities to make sure that Federal, State and local government bodies act in the best interests of local communities, with local communities being part of that decision making process.

**The Hon. J.C. IRWIN** secured the adjournment of the debate.

## CANNABINOID DRONABINAL

Adjourned debate on motion of Hon. M.J. Elliott:

That the Legislative Council requests that the Minister for Health extend the trialing of cannabinoid 'dronabinal' for medicinal purpose to include the trialing of cannabis to eligible patients.

(Continued from 5 March. Page 1104.)

**The Hon. M.J. ELLIOTT:** In closing the debate I thank members for their contribution, and I will keep this contribution very brief. I note that when the select committee into the use of drugs reported to this Parliament it recommended properly carried out scientific trials to examine the medical uses of cannabis. We had received some significant evidence to suggest that cannabis was useful for the treatment of a number of conditions, and the committee felt that the evidence was sufficiently strong that it should be further examined. We certainly do not suggest that it should be immediately used for medical purposes. What we suggested was that full scientific trials should be carried out.

What has happened in this State is that the Minister for Health has authorised the use of a cannabinoid known as dronabinal, which is a synthetic cannabinoid that copies one of a large number of active ingredients found within cannabis. It appears to me that running trials on this one active ingredient might actually miss the mark. If it is not the active ingredient that has been responsible for the claimed benefits in relation to cannabis itself, it is possible that people will dismiss it and say, 'Dronabinal did not work; it was a waste of time; we have now tried it.' To be faithful to the recommendations of the select committee and even to carry out a proper scientific study as to whether or not cannabis is effective, it is important that the trials go beyond dronabinal itself.

I think that the argument stands for itself. I understand that there has not been any significant uptake in South Australia of dronabinal at this stage. That is a pity, and it might be necessary for South Australia not just to do it alone but to work in conjunction with other States. It is only after we have carried out a full, properly conducted scientific trial that we can say, 'Yes, it works' or 'No, it does not', and then make decisions as to whether or not it should be used in the longer term and under what conditions. I note in closing that some of the conditions where it did work were those that are very important.

It has been claimed that for people suffering from cancer and people undergoing treatment for cancer it is particularly useful for improvement of appetite, and suppression of nausea. Cancer and aged patients are able to put on significant weight as a consequence of the use of cannabis and that, of course, enables them to be physically stronger, to fight the disease and, obviously, also greatly affects their comfort. It has been claimed to be useful with multiple sclerosis. One multiple sclerosis sufferer who was self prescribing and, unfortunately, being busted by the police on a regular basis, came before the committee. Here is a man in a wheelchair, suffering from multiple sclerosis, and he was being persecuted. It was quite unreal.

In relation to glaucoma it has been shown, I understand, that in some cases cannabis works with glaucoma when other drugs do not work. All those claims, if they are accurate, cannot and should not be ignored and, for that reason, I implore the Legislative Council to support the motion. I also implore the Minister for Health to look at extending the trial and, if necessary, because there is not sufficient uptake to run

a proper, scientific trial in South Australia itself, I believe he should look at other sympathetic jurisdictions. I have little doubt that the ACT, which is quite enlightened about these sorts of things, would be sympathetic, and I also suspect that Victoria would probably also be sympathetic, in light of a number of things the Premier in that State has said. I urge all members to support the motion.

Motion carried.

## VOLUNTARY EUTHANASIA BILL

Adjourned debate on second reading.

(Continued from 4 June. Page 1524.)

**The Hon. CAROLINE SCHAEFER:** I wish to begin with these words:

> I recall the painful years during my adolescence when my father was bedridden, slowly dying of the illnesses that sapped him of life. The shadow of death hovered over my studies as I lived with the knowledge that the next phone call could be to tell me of his death. Later, I experienced the losses that many of us have felt—family members to cancer, the tragedy of a young cousin disconnected from a respirator after a car accident. Like all of us, I have seen people die: some quickly, some slowly, some peacefully and some in circumstances we wish were different.

Obviously, these are not my words but those of Kevin Andrews, the Federal member for Menzies in his second reading speech on his private member's Bill. I use them because they sum up the experiences of most people. We all have our personal tragedies to tell, and I would like to state that I respect the grieving that must have accompanied the Hon. Anne Levy and the Hon. Diana Laidlaw on the mental journey that has brought them to their stand on euthanasia. Sadly, the individual cases that have taken them along this path would almost certainly have been greatly helped by modern palliative care.

I have chosen to quote Mr Andrews, however, to illustrate that witnessing great suffering is not exclusive to one group of people, nor does it make the beliefs of the pro-euthanasia lobby any more valid than those of the anti- euthanasia lobby. That I am opposed to euthanasia is well known. The assumption that my thought process is somehow inferior to those with whom I disagree is just a bit offensive. Much of the debate on this Bill has already been held. A select committee has already been held on the law and practice relating to death and dying which came out against euthanasia but which was the trigger point for sweeping reforms to palliative care in this State.

For the record, I will again state my position: I do not oppose someone with a terminal illness being allowed to die; I do not oppose that person being administered pain relief, even if a side effect will be death; and I did not oppose those clauses in the palliative care Bill debate. What I do oppose is someone deciding that they will die after lunch on Sunday and that a third person will be involved in their killing, and I am far from alone in my opposition.

Euthanasia has been condemned by every other civilised country in the world: by the British Parliament, and I will refer to its select committee report later; and, most recently, by the Supreme Court of the United States of America. Even the Netherlands, so widely quoted by both sides of the argument, has never legislated for legal euthanasia. The recent Australian select committee, after 12 500 submissions, brought down the following opinion:

> We share the views expressed by the members of the House of Lords Select Committee, the Canadian Special Select Committee and the New York State Task Force that laws relating to euthanasia are unwise and dangerous public policy. Such laws pose profound risks to many individuals who are ill and vulnerable.

Hippocrates, thousands of years ago, said:

> I will neither give a deadly drug to anyone if asked for it nor will I make a suggestion to this effect.

People like Colleen McCullough, who has no religious beliefs, and Professor Malcolm Fisher, who describes himself as a 'born again heathen', are apparent and very public opponents to euthanasia. The New York State Task Force on Life and Law (May 1994) made the following observations:

> The members of the Task Force hold different views about the ethical acceptability of assisted suicide and euthanasia. Despite these differences, the Task Force members unanimously recommend that existing law should not be changed to permit these practices. Some Task Force members do not believe that assisted suicide is inherently unethical or incompatible with medical practice. On the contrary, they believe that providing a quick, less prolonged death for some patients can respect the autonomy of patients, and demonstrate care and commitment on the part of the physicians or other health care professionals. Nonetheless, these members have concluded that legalising assisted suicide would be unwise and dangerous public policy.

In fact, I can find no parliamentary report anywhere in the world in favour of legalising euthanasia. Surely, one of our great responsibilities as legislators is to protect the weak and the vulnerable, yet what kind of message does legalised killing send to those who are old and infirmed? Andrews states:

> An independent South Australian study found that 49 per cent of doctors and nurses who said they had assisted a person to die did so without the knowledge or the consent of the person concerned.

Most of us know that voluntary euthanasia is the thin edge of the wedge, particularly when we consider comments such as those from pro-euthanasia exponents of the high profile of Sir Bill Hayden in his Arthur Mills oration of 1995 when he said:

> There is a point when the succeeding generations deserve to be disencumbered—to coin a clumsy word—of some unproductive burdens.

That there is a hidden agenda for some should be recognised. I am sure that Sir Bill is not alone when he suggests that society would be well rid of some of our old, tiresome, high cost and incapacitated people. Many people argue that euthanasia is about autonomy and choice, but how can this be when at least one other person is involved and, in the case of this legislation, several other people are involved? Andrews argues:

> Nor is this a debate about personal autonomy. A lethal injection is not an autonomous action, even with the use of a machine. If only one other person is involved we are not talking about euthanasia. But can anyone recall the death of a family friend or a member of the family that has affected no-one else?

This legislation puts huge responsibility on our medical fraternity—responsibility for which they were not trained, which, in many cases, cuts across their beliefs and which, in a huge number of cases, they have not sought. I recognise that there is allowance in this legislation for conscientious objection, but the pressure would still be there.

I refer to a research paper published in the *Medical Journal of Australia* of 18 November 1996 entitled 'Treatment decision making at the end of life: a survey of Australian doctors' attitudes towards patients' wishes and euthanasia' by Charles Waddell. More than 2 000 Australian doctors were randomly surveyed. They were presented with four case scenarios, each involving people who were terminally ill. I will not go into that research in depth.

However, the results showed that only a very small minority were prepared to actively intervene to end life. As part of the references to that paper, there was a quote from the publication of an N. Lickiss which sums up the view of many. It states:

> There will always be differences of opinion on profound matters in a free society, but being put to death with one's consent is not a private matter, for it strikes the foundations of what we are, and affects not only the one put to death, but the one who carries it out. Our acts shape us, and the act of putting another person to death must change us. If we are doctors, it strikes at the core of what we should be in society: bringers of life, of hope, of healing, of comfort, sometimes bringers of bad news, companions on the way. But not bringers of death.

In February 1993, the British House of Lords appointed a select committee to look at euthanasia, and at that time the committee was perceived to have on it a majority who would philosophically support euthanasia. It was chaired by Lord Walton of Detchant, who was reputedly medical consultant to the Voluntary Euthanasia Society at that time. However, the committee consisted of a group who were highly respected with distinguished qualifications in medicine, law and philosophy. Their findings and the reasoning behind them are extensive and expressed in terms clear to all, worth I believe some consideration by us tonight. I will quote some of their general findings. They state:

> We recommend that there should be no change in the law to permit euthanasia. We consider that [the law] should not [make a distinction between mercy killing and other murder]. To distinguish between murder and mercy killing would be to cross the line which prohibits any intentional killing, a line which we think it is essential to preserve.
>
> As far as assisted suicide is concerned, we see no reason to recommend any change in the law. We identify no circumstances in which assisted suicide should be permitted nor do we see any reason to distinguish between the act of a doctor and of any other person in this connection.

The importance of human life was expressed by the committee in the following terms:

> Belief in the special worth of human life is at the heart of civilised society. It is the fundamental value on which all others are based and is the foundation of both law and medical practice. The intentional taking of human life is therefore the offence which society condemns most strongly.
>
> Society's prohibition of intentional killing. . . is the cornerstone of law and social relationships. It protects each of us impartially, embodying the belief that all are equal. We do not wish that protection to be diminished, and we therefore recommend that there should be no change in the law to permit euthanasia.

Their finding, in part, on the right of the individual to determine his or her future, was:

> . . . dying is not only a personal or individual affair. The death of a person affects of lives of others, often in ways and to an extent which cannot be foreseen. We believe that the issue of euthanasia is one in which the interests of the individual cannot be separated from the interests of society as a whole.

They continued:

> We are also concerned that vulnerable people—the elderly, lonely, sick or distressed—would feel pressure, whether real or imagined, to request early death. We believe that the message which society sends to vulnerable and disadvantaged people should not, however obliquely, encourage them to seek death, but should assure them of our care and support in life.

This British select committee visited Holland and brought down the following view on the ability to control euthanasia:

> We do not think it possible to set secure limits on voluntary euthanasia. It would be impossible to frame adequate safeguards against non-voluntary euthanasia if voluntary euthanasia were to be legalised. It would be next to impossible to ensure that all acts of euthanasia were truly voluntary, and that any liberalisation of the law was not abused. Moreover to create an exception to the general prohibition of intentional killing would inevitably open the way to its further erosion, whether by design, by inadvertence, or by the human tendency to test the limits of any regulation. These dangers are such that we believe that any decriminalisation of voluntary euthanasia would give rise to more and more grave problems than those it sought to address.

I will comment on that finding, because it gets to the nub of things. Those of us who are opposed to capital punishment argue that just one mistake, just one innocent victim, would make legalisation abhorrent, unacceptable and immoral. Does the same argument not then apply to euthanasia? If just one person were to be put down involuntarily, would that not be just as abhorrent and certainly just as immoral? The Senate select committee view was:

> . . . no question as serious as euthanasia should be settled on individual cases, a general principle must be found which transcends particular cases. As with capital punishment, one principle which could be universally applied is that human life should be valued to the extent which puts it beyond the State.

There is one most insidious case for euthanasia, which I will mention only briefly, because in no way do I think this argument is held by anyone in this place. Put simply, it is that it is much cheaper to kill someone than it is to provide them with palliative care. The New York State Task Force made the following comments:

> No matter how carefully any guidelines are framed, assisted suicide and euthanasia will be practised through the prism of social inequality and bias that characterises the delivery of services in all segments of society, including health care. The practices will pose the greatest risk to those who are poor, elderly, members of a minority group, or without access to good medical care. The growing concern about health care costs increases the risks presented by legalising assisted suicide and euthanasia. This cost consciousness will not be diminished, and may well be exacerbated, by health care reform.

There is one particular clause in the Hon. Anne Levy's Bill which concerns me in the extreme, and that is her definition of hopelessly ill. The definition of hopelessly ill reads:

> A person is hopelessly ill if the person has an injury or illness that (a) results in permanent deprivation of consciousness or seriously and irreversibly impairs the person's quality of life so that life has become intolerable to that person.

And that is without the concurrence of any professional: it is simply intolerable to that person. I submit that under that definition an athlete who could no longer compete could be defined as hopelessly ill or a musician who became deaf could term themselves as hopelessly ill. This would seem to me to allow almost anyone to choose euthanasia. This clause is far more wide-reaching than the Quirke Bill or the Northern Territory former law. In fact, it provides virtually for death on demand, not just for the terminally ill. As legislators, do we want that on our heads? As Peter Goers said in the *Sunday Mail* on 5 March 1995:

> Parliamentarians are supposed to protect and serve their constituents and not decide whether they can be bumped off. Do you trust our politicians enough to put your life in their hands? Do you trust your doctor sufficiently to give him the power to murder you?

He continued:

> Our right to die in our own time is already protected by law. We can refuse treatment and life support mechanisms and so hasten death. In the vast majority of cases pain and suffering can be relieved and patience is virtuous.

I should again revisit what euthanasia is or, more importantly, what it is not, because there seems to be some confusion for many people. Euthanasia is not withdrawing treatment for the terminally ill, it is not the turning off of life support, and it is not the relief of pain. Rather, it is the deliberate premeditated act of taking a life. Voluntary euthanasia is the taking of that life with permission. Make no mistake, euthanasia is not

about the right to die: it is about the right to kill. To me, the fact that the killing may be done with permission, compassion and good intentions does not change the fact that its legalisation would debase the very fabric of our society.

I express my great sympathy for those few who cannot be helped by palliative care. I acknowledge the sincerity of many of the supporters of this Bill. I hope that they will in turn acknowledge my sincerity and that of the numerous people who share my view. In the end, legislation must be made for the greater good rather than the exception. I cannot and will not be party to a law which would turn South Australia into the first killing State in the world.

**The Hon. J.C. IRWIN:** I do not support this legislation, so I will not support the second reading. At this point I commend my colleague and friend the Hon. Caroline Schaefer on her contribution. I totally support her views. I might go over some of those views again, but I will be reasonably brief. I am somewhat ambivalent about speaking at all on this Bill. I have lurched from one viewpoint to another. I feel that I have said it all before and find it difficult to whip up sufficient enthusiasm to make a proper and compassionate contribution to a debate which I and everyone else take as extremely serious.

Furthermore, as I am so bitterly opposed to any legislation which proposes the killing of a person, I should make a full explanation of my personal position. I think most of us hold the view that if people write to us it is just not good enough for us to write back and say, 'Well, I don't support it' or 'I do,' without speaking in this Chamber and saying for various reasons that, 'Yes, we do support it' or 'No, we do not.' As I said, having done this once or twice before I find it hard to get the enthusiasm to speak again when my position is pretty well known to all members and to those people who write to me.

I will not take up too much of the Council's time by again making a full explanation tonight. I refer interested people to my previous remarks on the palliative care legislation that the Legislative Council has considered over the years. However, I feel that as an elected member I have the responsibility to make a short contribution in explanation of my position.

As with all other debates in this place I have the greatest respect for those of my colleagues here who express a different point from me, whether it be on Government, private members' or social conscience legislation. The Hon. Anne Levy's Bill falls into the last category. I do find it very difficult to extend that respect to some people outside this place. In particular, I find such people/doctors as Dr Phillip Nitschke obnoxious and evil. There is no other way that I can describe the person. I find it very difficult even to look at him on television now that he is more exposed than Pauline Hanson. I have taken time before to spell out and speak about the hippocratic oath taken by all doctors. I have no time whatsoever for people who call themselves doctors and who swear a serious oath, which, crudely and amongst other things, is a licence to print money, and then break that oath. As far as I am concerned, they either take the oath and become doctors or do something else. I thought I would try to find the hippocratic oath, which I have quoted in this place before. The oath has evolved since about 460 BC, based on the work of Hippocrates.

Some time ago the Library found what is now called the 'Declaration of Professional Dedication' which is used by medical graduates from Flinders University. The wording has changed somewhat, but I guess the points are fairly clear. It states:

> I will use treatment to help the sick according to my ability and judgment, but never with a view to injury or wrongdoing. Neither will I administer a poison to anybody when asked to do so, nor will I suggest such a course. Into whatsoever houses I enter to help the sick, I will abstain from all intentional wrongdoing and harm, especially from acts of seduction. And whatsoever I shall see or hear in the course of my profession if it be what should be published abroad, I will never divulge—

I wonder when that will be broken by doctors—

> holding such things to be holy secrets. Now if I carry out this oath and break it not, may I gain forever reputation among all men and women for my life and for my art, but if I transgress it and forswear myself, may the opposite befall me.

People such as Dr Nitschke have only one option under the oath, that is, to be a doctor or not to be a doctor. He and others such as him make a mockery of the medical profession, and he and others such as him make a mockery of the palliative care legislation which he put to the test dramatically when someone was left out from the Northern Territory legislation when that was defeated and when the next person to die under Dr Nitschke was used to mock the use of the palliative care legislation.

It is another matter but, nevertheless, connected to the euthanasia debate that I did not support the Andrews Bill. I simply did not believe that the national Parliament should interfere in the affairs of what I consider to be a mature Territory. The Northern Territory has been around long enough and is able to make up its own mind, even though it may not be a State. That is the principle I am working on. It has nothing to do with the euthanasia debate; it is purely the principle of the Commonwealth Government's interfering with the State first and then with the Territory. I acknowledge that the Commonwealth has some right to do that, but as it involved a mature Territory I do not believe the Commonwealth should even have put its nose in there. I support the notion that a State or Territory should be left alone to make laws for its own people as it wishes and as those people wish it to do as their Legislature.

My other point in respect of the Andrews Bill is that it was a declared conscience issue in that it is quite different from being a Government Bill. The mind boggles at what the national Parliament could do to a State or a Territory as a result of a conscience vote of the Parliament. In other words, it does not need to go through the Party rooms: it just needs to be declared a conscience vote and on any piece of legislation it can have some consequence for the States.

There are some attitudes within the euthanasia debate which puzzle me. It is a bit odd to make this reference, but I ask the Council to bear with me. I find that the same attitudes exist in the republic constitution debate that is taking place in Australia today. I will not go into detail on this; I just want to try to make a point. In the republic debate some people just want a change to the head of State, for example, removing the sovereign and replace that with something else, such as a President.

That is all some people want and most often they do not think past that simple notion of replacement. They do not think about the number of constitutional changes that that will entail. They do not think out the details. They do not think out how dramatically different a republic with a President would be from a republic with a hereditary sovereign. I make no judgment whatsoever about how those people think or whether they are right or wrong.

That sort of thinking applies in the euthanasia debate. Some people simply want to see and support a quick, dignified end for their loved ones, in many cases an aged loved one. I cannot believe that anyone would not support that position of dying with dignity and quickly. Where I differ is when the debate turns to how to bring about the end of the life of a loved one. With respect, I do not think that many people think out the whole position such as how the life will be ended, who will end that life, who will make the decision to turn off the life support system or give the lethal injection.

I put this question rhetorically to people: are you the sort of son or daughter of a loved one who is prepared to look your loved one in the eyes, straight full on in the face, and pull the trigger, so to speak? Have they thought the whole process through to include or exclude the inevitable slippery slope from voluntary euthanasia—and we debated all this on the palliative care legislation—to involuntary euthanasia, which is killing on demand?

In previous debates I have made some of these points. We cannot legislate between what is morally right and what is morally wrong. It is very difficult to codify the so-called correct path on a moral issue such as killing a person. That is the sort of point that our colleague and friend Dr Ritson made in a contribution to this place. The way health costs are increasing, decisions could be made on health grounds, which point was made by the Hon. Caroline Schaefer. Who determines which person is a burden on society, whether it is a young person or an old person? Suffering and grief might be more in the mind of the family than the person who is suffering. That point is made often. Then there is the Dutch experience, which is brushed off by those who support euthanasia.

Because they make my contribution complete, I shall refer to some quotes that have already been used by the Hon. Caroline Schaefer. Many eminent bodies have looked closely at the possibility of legalising euthanasia. The New York task force, a group of eminent individuals representing various interest groups, concluded:

> No matter how carefully any guidelines are framed. . . the practice (of euthanasia) will pose the greatest risk to those who are poor, elderly or members of minority groups without good access to medical care.

The House of Lords in the United Kingdom concluded:

> We do not think it is possible to set secure limits on voluntary euthanasia. It would be next to impossible to ensure that all acts of euthanasia were truly voluntary. These dangers are such that we believe that any decriminalisation of voluntary euthanasia would give rise to greater problems than it would solve.

The relief of suffering, loneliness and helplessness in the terminally ill is one of the major challenges facing our society in general and health care professionals in particular, and we have addressed some of those problems before. Civil libertarians, philosophers, politicians and a few outspoken members of the medical profession supporting the legalisation of euthanasia have played a vital role in highlighting these difficult problems.

I shall quote now from an article by an American, Nat Hentoff, who says:

> There is much interest in the Netherlands in the assisted suicide and euthanasia cases now before our Supreme Court.

That is in America. The article continues:

> For more than 10 years Dutch doctors have been empowered to help patients kill themselves, and increasingly physicians there have been directly killing patients, sometimes without being asked to do so. A Dutch television crew came to the *Village Voice* to interview me [Nat Hentoff] because I had reported extensively on Dutch deaths on demand for this paper and the *Washington Post*. . . What surprises and angers me, I told Dutch TV, is that, despite that courageous model of Dutch doctors during the Nazi occupation, doctors in the Netherlands are engaged in terminating patients. Moreover, many ignore the guidelines that were set when physicians were given the power to kill: the patient must repeatedly, voluntarily ask for death; the patient's suffering must be unbearable and without prospect of improvement; at least one other doctor must be consulted.
>
> For Dutch viewers I quoted Dr Herbert Hendin, whose most recent book is *Seduced by Death: Doctors, Patients and the Dutch Cure* (Norton). Testifying before a congressional subcommittee, Hendin illuminated the irreversible Dutch slippery slope that American supporters of assisted suicide would wish upon us: 'The Netherlands has moved from assisted suicide to euthanasia; from euthanasia for those who are terminally ill to euthanasia for those who are chronically ill; from euthanasia for physical illness to euthanasia for psychological distress; and from voluntary euthanasia to involuntary euthanasia (called in the Netherlands 'termination of the patient without explicit request').'
>
> I then asked the Dutch TV interviewer how the Dutch people can justify not only this 'quality of life' killing of adults, which brings back memories of the Nazi occupiers, but also the liquidating of 'defective' children. An account of the euthanising of children in the Netherlands comes from Dr Richard Fenigsen, a cardiologist in the Netherlands. I got to know him about eight years ago, and he predicted that Dutch euthanasia would go inexorably out of control because there are no truly binding limits once society gives doctors the power to kill.
>
> In a September 1996 report by our House subcommittee on the Constitution, Dr Fenigsen tells of a Dutch three year old who had spina bifida but was otherwise in 'fair general condition'. For two days, he did not feel quite well and his parents asked for euthanasia. (How could a three year old have protested?) One nurse, appalled, opposed the decision, and she and her husband offered to adopt the child. The offer was turned down. The boy was killed by the physician 'with drugs administered by intravenous drip'. And, dig this: 'The nurse was reprimanded because by involving her husband in the adoption proposal she violated professional confidentiality.'
>
> I used to think the Netherlands was an exceptionally civilised nation. In January, during oral arguments in our Supreme Court on the assisted suicide and euthanasia case, Justice David Souter said, 'Maybe the court should wait [to make a decision] until it can know more [about the actual risks].' We know a lot now. The Netherlands is the only country in the world to have instituted wide-ranging legal killing by physicians, and the last 10 years have provided a full, detailed record of what that decision has lead to. I would suggest that Justice Souter and other members of the Supreme Court examine the Dutch record before bringing death on demand to the United States and creating a culture of death.
>
> From the congressional subcommittee report on 'Physician-assisted suicide and euthanasia in the Netherlands', Dr Fenigsen worries about the long-term effect of the permissive attitude of the Netherlands towards euthanasia for people with disabilities. There seems to be little tolerance for disabled children and the parents who raise them. In fact, Professor J. Stolk, a specialist in mental retardation at the Free University in Amsterdam, has documented cases where parents of disabled children are rebuked. For example, parents have heard statements such as, 'What? Is that child still alive? How can one love such a child? Nowadays such a being need not be born at all. Such a thing should have been given an injection.'
>
> Eight years ago Dr Fenigsen told me of elderly people in the Netherlands who were afraid to go to hospital. They did not want to die and they feared that a doctor feeling compassionate about these old folks' frailness would decide to euthanase them. They knew of others to whom that had actually happened.

I refer to an article by Nat Hentoff titled 'Death in the Netherlands' which appeared in the *National Right to Life News* of 24 March 1995. The article states:

> A 1995 study of euthanasia in the Netherlands disclosed that 23 per cent of the doctors interviewed reported that they had euthanased a patient without his or her explicit request. Furthermore, at least half of Dutch physicians involved made the initial suggestion that death should be embraced. That is, they suggested euthanasia to patients.
>
> But what about the guidelines that said that the request had to come voluntarily from the patient? Says Dr Herbert Hendin: 'Virtually every guideline established by the Dutch to regulate

euthanasia has been modified or violated with impunity'. . . And if euthanasia becomes legal in this country—

that is America—

will future generations of American physicians feel no qualms about disposing of the 'unworthy'?

Finally, I am getting a bit tired of being told by people that I can do what I like with my body. I have had a number of people write to me and say that they have that perfect right to do what they like with their body. I am tired of being told that I have to move with the times, embrace new ideas, new concepts and new practices. When can we expect the next wave of moving with the times? There would be complete shock and horror if I in this place suggested the next moving with the times will be to condone rape, paedophilia or child abuse. They are all out of bounds now but they may not be in 10 years when they become the next wave of moving with the times.

Let me remind members that the Attorneys-General of Australia already have a discussion paper, which we have heard of in this place and about which we have been lobbied for consideration, containing such topics as the age of consent, lowering the age of consent and the possibility of incest being made available. That is on the table now and before the Attorneys-General as a discussion paper. Someone is thinking of those things. So, when is the next wave? Certainly if they came through I would not support them and most members in this place would not support them. I urge members not to support the second reading of this Voluntarily Euthanasia Bill introduced by the Hon. Anne Levy. It should not go any further. I have been following this debate now for a number of years and the arguments have not changed a great deal on either side, except that what used to be seen derisively as the Dutch experience and just thrown away with the wave of the hand is strengthening daily as I read papers on the Dutch experience: it is heading a long way away from voluntary euthanasia to involuntary killing of people. I tell members of this Council quite strongly that I will never support it.

**The Hon. A.J. REDFORD:** I will be brief and I hope unemotional. There are many better qualified members present who can make a more detailed contribution on this topic. This is a conscience vote. That, as I understand it, is a vote in accordance with my conscience. If I base my decision solely on the basis of my conscience, then I would oppose this legislation as I strongly believe in the sanctity of human life and, further, that it would conflict with my religious beliefs, that of a poor Christian in need of much forgiveness. However, I qualify my position—

*The Hon. Diana Laidlaw interjecting:*

**The Hon. A.J. REDFORD:** Yes—because I have been relatively lucky in my life in that I have never witnessed the slow lingering death of someone close to me. At the age of 40, I still have both parents and one grandparent. The three grandparents I have lost in the past decade did not suffer unnecessarily. However, I have had lengthy discussions with people who have lost people following a lengthy, painful and lingering death. Indeed my wife has described the circumstances surrounding the death of her father and is now a strong advocate of euthanasia. I am touched by the experiences of the Hon. Anne Levy and I respect her experiences and the view that she so strongly and passionately holds. Yet not having had that personal experience, my conscience will not bring me to agreeing with euthanasia.

Further, recently we passed palliative care legislation. In short and in summary it allows a medical practitioner to prescribe treatment to a patient in the terminal phase of a terminal illness notwithstanding the fact that that treatment might lead to death. One might think that that would cover all the situations that have been described by the other speakers. I am told it does not because there are occasions where people might choose to die because the quality of their life is so poor, yet they are not in a terminal phase of a terminal illness. To extend the law in this fashion, in my view, is premature.

However, the only concession I would make is to indicate that I would support the Bill if there was a clause in it to the effect that the Bill would not take effect until such time as it is passed at a referendum which referendum would be held at a time not more than 12 months and not less than six months after the next election. I say that because I believe it is an important issue and one that should not be unnecessarily clouded during an election campaign on other issues. I say it for this reason. I have spoken with both proponents and opponents of this legislation. Two of the leading spokespeople have indicated to me that it is not appropriate for these sorts of issues to be dealt with by way of referendum.

My answer to them is this. I am elected to this place for many reasons and probably for least of all my opinions on some of the social issues such as euthanasia or prostitution and the like. I have trouble understanding why my conscience, simply because I am elected to this place, is any better than anyone else's. I also believe that the collective conscience of the people of South Australia might be better than my conscience. I know that the proponents of euthanasia believe that there would be a scare campaign put out by the opponents of euthanasia which may scare people into voting 'No.' I also understand that the opponents of euthanasia look at the current opinion polls and say that the proponents have such a lead and such an advantage that they (the opponents) would not be able to win a referendum.

It is my view that with a careful and considered public debate—and I do not believe there has been one at all to date—the people would come to a correct conclusion. Indeed, I indicate that I would vote against any legislation at a referendum. At the end of the day my view is this: as a matter of conscience, if the Bill is presented to me in the current form with no amendments to it, then I will vote against it. On the other hand, if there is a provision for a referendum before the Bill comes into effect, then I will support it.

**The Hon. R.D. LAWSON:** I will not be supporting the ultimate passage of the Voluntary Euthanasia Bill introduced by the Hon. Anne Levy. I must confess that I do not have a view which would require me inevitably to oppose measures for voluntary euthanasia. However, it seems to me that this measure is flawed. It is also my belief that at this time in our history legislative measures of this kind are inappropriate. A novelist, Morris West, encapsulated objections to this form of legislation in an item that was published in the *Australian* of 1 October last year. He put it this way:

The ambiguities and the dilemmas created by terminal illness and terminal suffering will not be eliminated by legal documents. A law, however carefully it is framed, becomes immediately an anomaly. It is at once permissive and inhibiting. It is always—and unavoidably—intrusive. It is always an abridgment of both liberty and privacy. It calls new pressures into places and occasions where otherwise they would have no right to be. . . No place should be more free from judicial surveillance and post mortem inquisition of

whatever relationships are active at that moment. If abuses occur, they should be dealt with after inquiry under common law.

The point that Morris West was making was that a judicial surveillance has no place in a matter such as the termination of life, other than the conventional coronial inquest. If one introduces the types of bureaucratic and legislative mechanisms that are put in the Hon. Anne Levy's Bill, one introduces rules, hoops to jump through, hurdles to cross, forms to fill in, t's to be crossed and i's to be dotted. Rather than freeing individuals and medical practitioners, it puts a heavy constraint upon them. It limits the circumstances in which euthanasia might be permitted. It has a limiting rather than an expansive effect.

One only has to look, for example, at the South Australian law relating to abortion, section 82A of the Criminal Law Consolidation Act. Some people are now advocating that other Australian States should adopt that form of mechanism. However, those who favour abortion being freely available to women see the South Australian law as far more constraining than the common law that applies in other places. It is said, although I have no evidence for this, and I was reading last week, that South Australian women are leaving the State of South Australia to have terminations of pregnancy elsewhere because of the constraints imposed upon them by the South Australian law.

**The Hon. Carolyn Pickles:** The third trimester.

**The Hon. R.D. LAWSON:** Not only third trimester, but other circumstances where people are climbing through hoops under a law that Parliament, with the best intention in the world, passed to give people freedoms. And it is found, as Morris West so elegantly expressed it, that there is judicial surveillance where none ought be. The Hon. Anne Levy's Bill contains all sorts of limitations: who may request euthanasia, clause 5; a request must be in certain form, a current request or an advance request; the information must be given before a formal request is made; there is a special stipulated form of request; and procedures are to be observed. These are the procedures that, no doubt with the best will in the world, legislatures are trying to lay down in advance for the vast range of circumstances that will arise. One simply cannot do it.

I am not one of those with my head in the sand who says that euthanasia is not occurring already in our society; it does. And I am not drawing any judgment about whether it is acceptable or unacceptable; I am saying that it happens. It seems to me that there is no occasion to place the sort of legal panoply and structure that is sought to be placed in this Bill. It is touching that some people have such great faith in the law. I have been a legal practitioner for 25 years: I do not have such unguarded faith. I do not believe that legal solutions to problems are necessarily the only solutions to problems. I do not believe in thinking that, by laying down legal structures, legal rules and legal procedures one gets all the sorts of safeguards and protections required.

I heard in interjection someone saying that these are safeguards; these are protections. One looks at section 82A of the Criminal Law Consolidation Act, the measure I was speaking of previously about abortion. The Parliament in that legislation laid down all sorts of safeguards: two medical certificates and all sorts of rules and circumscriptions that were said to be placed upon the procedure being available. Those safeguards might have sounded quite good in this place. Those circumscriptions might have sounded good to legislators—

**The Hon. Diana Laidlaw:** I suspect they were compromises.

**The Hon. R.D. LAWSON:** The Minister says that she suspects they were compromises. Indeed, they probably were, but they were inserted with the best will in the world and in good faith. But I hazard to say that those so-called safeguards are really not safeguards at all. Those who thought they were safeguards and who thought they would prevent or limit the number of terminations of pregnancy were sadly mistaken. And I use that example only to say that the sorts of measures you put in laws of this kind invariably do not have the effect that the original legislators intended. It is for that reason that I will not be supporting the Hon. Anne Levy's Bill.

I have received, as have no doubt other members, many letters, requests, papers and submissions from persons on both sides of the argument. Many of them have written personal accounts. As a legislator, I thank them for bringing their views to the attention of members of Parliament. They are organisations such as the South Australian Voluntary Euthanasia Society Inc. (SAVES), of which Ms Mary Gallnor is the Chair, and Dr Eric Garget has been President and is prominent in its affairs. SAVES has produced a great deal of temperately expressed and well reasoned arguments for the propositions that it supports.

Notwithstanding the measured manner in which it advances its arguments, I am unconvinced by them. I believe that it has what I might term a rather rose-tinted view of the effect of legislative intervention in this area. I was a great supporter of the Consent to Medical Treatment and Palliative Care Act that was passed by this Parliament a couple of years ago, after a great deal of debate in this Chamber and elsewhere. I believe that we are still seeing the working out in practice of the principles that were embodied in that legislation.

I believe that, in the fullness of time and in the course of the coming years, we will see better practices developing, in a medical sense, in the death and dying of the terminally ill. And I believe that, in the fullness of time, there will be a better understanding in the community and a less emotional understanding in the community of some of the issues involved in euthanasia. Like every one, I have witnessed with some concern the defeat of the Northern Territory legislation. It was my belief that that legislation suffered from the sort of defects I see in the Hon. Anne Levy's Bill.

It seemed to me to create structures which the practitioner who was prominently involved in this practice in Darwin found difficult to comply with. I thought it was overly bureaucratic; but I did believe that it was the right of the Northern Territory Parliament to pass a measure of that kind. I do not doubt the constitutional competence of the Federal Parliament to pass the law that it did pass; however, I doubt the wisdom of a national Government's preventing a Parliament of a small Australian community passing that law. I am not saying that if I had been in the Northern Territory I would have supported it: I do not think I would have.

My objection, I think, to that legislation would have been the same as it is to that which is presently before us. However, I do believe that it was within the moral competence, if I can put it that way, of the Northern Territory Parliament to pass such a measure. Accordingly, I will not be supporting the ultimate passage of the honourable member's Bill.

**The Hon. M.J. ELLIOTT:** I support the second reading and I will make a brief contribution. I want to address the moral issues and not the individual clauses of the Bill. It

appears to me that when we are talking about voluntary euthanasia we are talking about the decision that a person makes about their own life. It is a moral decision and it is a moral decision based within their own morality. What all members of this place need to recognise is that we do not have a right to inflict our morality upon another individual where our decision impacts upon that individual and no-one else. In fact, some of the people who are leading the charge here in terms of opposing this sort of legislation are the very sorts of people who complain regularly about having other people's morality inflicted upon them.

**The Hon. R.D. Lawson:** I didn't talk about morality.

**The Hon. M.J. ELLIOTT:** I was not talking about the honourable member. It is quite a different issue if a person is making a decision that is impacting upon someone else. And so, if we have moral issues before us where a person wishes to do something but it impacts upon a third party and that third party is unwilling, is of a different morality, is not an adult, and is not competent we, of course, as a State, should intervene to ensure that one person is not impacting upon another. But that is precisely what people are seeking to do here who oppose the legislation.

They are seeking to impose their will and their view of the world onto another individual, and the only questions that need to be resolved in legislation, in my view, are whether or not the person, in making such a decision, is doing it of their own free will, and whether or not they are of sound mind at the time they make that decision. If no external pressures are brought to bear on that person and that person is making a decision of their own free will, then who is it that dares to impose their own personal morality upon another individual? In fact, many people involved in this movement do not use the term 'euthanasia' but prefer to use the term 'right to die'.

You have a right to live; you have a right, in the sorts of circumstances described in this legislation, to say, 'I have had enough.' That right should be yours to make, and how dare someone else impose their will upon that decision. I think the moral issues are quite clear cut: are you prepared to accept the notion that one person's morality should not interfere with another's? If you do not accept that, then the people who take that view will have to accept that perhaps other people's morality might be inflicted upon them at some time in the future and, I am sure, they would be the first to complain.

**The Hon. T.G. ROBERTS** secured the adjournment of the debate.

## WATER SUPPLY, NORTHERN

Adjourned debate on motion of Hon. T.G. Roberts:

That the issues associated with the protection, availability and use of surface and subterranean water in the northern regions of the State be investigated by the Environment, Resources and Development Committee.

(Continued from 19 March. Page 1252.)

**The Hon. M.J. ELLIOTT:** I sought leave to conclude my remarks and indicated when I last spoke that I may move an amendment to this motion to extend the term of reference to cover ground waters not just in the northern regions of the State but throughout the State. I have had second thoughts about that notion: I will be supporting the motion in its current form but indicate that some very important issues need to be addressed in relation to ground water. In fact, a raging debate is continuing in the South-East of the State at this stage, and perhaps the ERD Committee, of its own volition, might decide that it is worth looking at that issue, which it is free to do.

**The Hon. R.R. ROBERTS** secured the adjournment of the debate.

## CONTROLLED SUBSTANCES (CANNABIS DECRIMINALISATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 March. Page 1105.)

**The Hon. T. CROTHERS:** I rise to support the Private Member's Bill standing in the name of the Hon. Mr Elliott. It is with some pride that, on such an unfortunate subject, I rise to do so. For all too long politicians and others in the corridors of power in this and other nations have adopted an ostrich-in-the-sand attitude, or an attitude of political correctness, or an attitude that they thought was an electoral plus for them by being in opposition in any way, shape or form in respect of the decriminalisation of marijuana. I understand that the Elliott Bill does not seek total decriminalisation as we understand it but rather a controlled legalisation; is that correct?

**The Hon. M.J. Elliott:** Controlled availability, not legalisation.

**The Hon. T. CROTHERS:** Yes, I am coming to that. It does not seek total decriminalisation as is often mooted. It seeks to give effect to a controlled legalisation of the possession and usage of marijuana. As I understand from conversations I have had with the Hon. Mr Elliott, he means that marijuana would be available throughout the community at particularly designated spots for distribution. He has suggested that pharmacies would be ideal locations for that distribution, and I concur in that. Why is this so important at the moment for this Council and other Parliaments of the various States, the Federal Government and the other nations of the world which have not as yet tried to come to grips in dealing with the drug problems that inhabit the world far and wide? The short answer is that we have lost the battle by using the more conventional methods of trying to grapple with the problems of drug usage and drug deaths.

It is a shame that we have lost that battle because some of us have not had the political courage to take up the cudgels to endeavour to find a new light at the end of the tunnel—a new and more effective way to deal with the problems which beset us and which emanate from the utilisation of drugs in our society today. I am mindful of the American experience in the area of prohibition. They introduced the Volstead Act in the 13 most populous States in the United States, and that simply did not work. All it did was entrench organised crime in the United States; it gave the Mafia and other criminal elements in the United States unlimited access to funds and I understand that now organised crime there is the second largest industry outside the government within the American union of States.

One would have thought that we should have learnt a lesson about the way in which we try to control substances in use by humanity, the social uses of which are deemed by society and many in the medical profession to be harmful. But no, we have not. We have continued on our merry way and, as a consequence of that, drug usage has increased year by sickening year. Although we in political circles have tried from time to time to decriminalise marijuana, we have sat on

our hands when drug users are crying out for appropriate, effective leadership from those of us playing a part in walking the corridors of political power in this nation and internationally.

In spite of the best efforts of the FBI in the Golden Triangle against the Columbian cartels, it has not succeeded in wiping out the cartels that control the harder drugs like heroin, etc. in our society. There is strong evidence and the Federal Police have gone on record saying that elements from Hong Kong and mainland China called the Triads now control the importation of heroin into Australia from the Golden Triangle. There is evidence that repressive regimes such as the Burmese Government have their sticky fingers in the pie. There is even stronger evidence that the military and political officialdom of Thailand have their sticky fingers in the pie. When you get such people in power, as was proved through the era of Al Capone, Legs Diamond, Bugsy Malone *et al* who can buy people in power, it is time for us to say, 'Enough is enough.'

Malaysia, Singapore, Thailand and other nations in that area have brought in mandatory capital punishment for being in possession of certain quantities of hard drugs such as heroin. Has it stopped it? Has it hell. When the profits to be made from the handling of such destructive hard drugs as heroin are so high, when people can count on the protection of people in high places, anything we can do with respect to present methodologies to try to put a dampener on the increased flow and utilisation of these drugs is nowhere near sufficient. There is evidence that not only the Triads but also other criminal elements operating out of Hong Kong, mainland China, Korea, and other areas are fully operational within Australia in Sydney and that Australia is now being used as a clearance house for those drugs.

Why do I keep harping on the subject of heroin? The reason is very simple, and I will come to it directly. When people at the coalface of the grim realities of drug utilisation—people who are sitting on the higher benches of judicial authority, police commissioners all over Australia, and in the Federal police—are saying that we have to change the methodology of trying to deal with these problems, then it is time that we took a decision and tried something different to determine whether it would work, because what we are doing now is not working. The Hon. Mr Elliott could have left this matter alone, but he has shown some courage in introducing this matter.

I have said that the problem is with heroin and I will say why I have said that and why I support the controlled centres for the legal distribution of marijuana. One of the things that happens with younger folk is that the people who are peddling the hard drugs and pushing them into society in ever greater quantities supply marijuana as well. They start young drug users on marijuana and then, because they get to know they use marijuana, the next step they will endeavour is to push them up into the harder, more pricey and therefore more profitable drugs such as heroin, with all the many deaths that that leads to. I ought to know about those deaths, because my only son died as a consequence of a drug related overdose. As an individual I have no love for drugs of their ilk, but I am honoured indeed to be able to support the Hon. Mr Elliott's attempt to do something meaningful about it. Because those people who sell heroin are by and large the same people who peddle the marijuana, they get to know the names of the marijuana users and they then try to step them up into the arena of harder drug usage.

If you have, as is proposed in the Hon. Mr Elliott's Bill, centres for the legally controlled release of marijuana, you deny the pushers of hard drugs the names of those people who are utilisers of marijuana. In terms of the capitulation of the tobacco companies in the past two months, I wonder how much money the tobacco companies were putting in with respect to ensuring that we did nothing to decriminalise and legalise the utilisation of marijuana. If you think they are not guilty of doing that, consider the lies they have perpetuated and on which they have been caught out. In the past several months, information harmful to their activity that they have hidden for years has been uncovered in the United States of America.

If members of this Council sit on their hands and take what they believe is the moral position, we consign hundreds, if not thousands, of our young country men and women to an early grave, because if you have centres that are legalised in a sense of being able to control the dispersal of marijuana you keep the price down but, more importantly, you deny the pushers of hard drugs the information that they need to continue on; that is, you keep from them the names of those people use marijuana.

I commend the Bill to the Council. I could say much more, but I realise that time is of the essence. I commend the Hon. Mr Elliott for yet again another attempt. He has not failed in courage or tenacity in respect of trying to redress this matter. He is to be commended, and I commend his proposition to the Council.

**The Hon. P. HOLLOWAY** secured the adjournment of the debate.

## FOOD (LABELLING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 February. Page 829.)

**The Hon. SANDRA KANCK:** We have had speakers for both the Government and the Opposition on this Bill, and the Government has indicated that it will be opposing the legislation whereas Opposition has indicated its support for it. In her comments the Minister for Transport said that the Government supports the principle of what this legislation is trying to do but does not support the passage of it. The reason she gave was that the State Government is involved as part of the discussions with the Australian and New Zealand Food Authority (ANZFA) and that the State Government feels the need to work in uniformity with that body. That is all well and good, except that one must recognise that ANZFA as a body has been taking the position that you cannot tell the difference between genetically modified food and normal food and that, therefore, there is no need to label. So, we are working against a body that is working against the interests of consumers.

I do not think that the South Australian Government's involvement with ANZFA is necessarily a good thing. Certainly, it is a very slow process in which we are involved. The Minister referred to discussions in which the State Government has been involved since 1991. Here we are in 1997 and we still do not have labelling of genetically engineered food. My view is that South Australia should go out on a limb and show the other States how to do it. As the Minister observed, we do not have irradiated food. My response to that is 'Yet'; it is only a question of time.

The continued inaction of our State Government will allow more and more genetically engineered foods to get onto the market, and the longer we wait to take action as these foods become part of the market the harder it will be for us to overcome the wait that is there to get something in place.

The manufacturers, the producers and the marketers all will argue that the products are on the market, that no-one has come to any harm and that therefore the labelling is not needed. I referred before in this place to Creutzfeld Jacob Disease (CJD). So far, since the human growth pituitary hormone was administered mostly to women in Australia about 20 to 30 years ago, there have been five deaths. Currently, another women in Australia is showing neurological symptoms consistent with CJD, and I believe it is 27 years since she received the human growth pituitary hormone.

At that time there was no reason for any of the women who were taking that to believe that their lives might be at risk later on down the track. I do not think we can know, despite the reassurances that genetically modified foods will not have a long-term effect. Scientists have been wrong before. We have seen it with things such as Agent Orange and with what I call 'flat earth' scientists—the scientists who tobacco companies, for instance, have been able to buy, who have been willing to doctor their research and results and who have been prepared to lie in order to represent the company that they are paid to represent.

Just as those scientists who have operated with the tobacco industry are on the way out, as the tobacco industry is on the way out, we will equally find that such scientists can be bought by the big drug and pharmaceutical companies. I am simply not willing to accept—and most consumers are not willing to accept—those sorts of soft murmurings.

At the moment we have a number of products on the market. When I introduced the legislation I referred to cheeses that are made from genetically modified rennets. Since I introduced the legislation last year another product has crept into the market, namely, weedicide-drenched soy beans. Some people might think that soy beans are something that only health-food nuts eat, but to a greater or lesser extent they are present in 60 per cent of manufactured and processed foods. That ranges from baby foods, bread, ice cream, hamburgers and vitamins to milkshakes. They are in an enormous number of foods. We received the first consignment of these in Australia from the United States in December last year.

The soy beans to which I have referred have been developed by the multi-national company Monsanto. They call them 'Roundup Ready' soy beans. They have been genetically modified so that they can tolerate huge amounts of the weedicide that we know as Roundup. The theory is that it makes it easier for the farmer because the farmer does not have to pull out weeds between the crops as they are growing. The argument that Monsanto advances is that this is good for the soil because the farmers do not have to go in between the crops and till the soil to remove the weeds and that therefore there is less destruction of the soil. I truly wonder at what price this convenience for the farmer comes.

Adelaide's frog man, as he is known, Professor Mike Tyler, has theorised that one of the reasons there has been a reduction in the number of frogs in the environment is the use of these glyphosphate-based products such as Roundup. If there is any validity in that theory that it is affecting frogs, one has to wonder what its effect might be on human beings.

As I said, the first shipment of these Roundup Ready soybeans came into Australia last December but ANZFA, being a slowly reacting body, has not been able to speed up its process to either assess or regulate them. Because they are on the market now, it will eventually approve them after the event, and that approval will allow a 200-fold increase in Roundup residues in these soybeans from 1 milligram per kilogram to 20 milligrams of Roundup residue per kilogram of soybeans. ANZFA says that it cannot do anything about them until the draft food standard on gene-tech foods is agreed on. That is precisely the point that I am trying to make to the Government. If the Government sits back and waits for ANZFA to take action, nothing will happen other than that the big multinationals will get their products onto the market on their terms.

I issued a media release a couple of weeks ago about these weedicide-drenched soybeans, and Monsanto picked it up through its media-monitoring service and sent me a kit about the issue. The kit contained a lovely, multicoloured booklet entitled *Biotechnology Solutions for Tomorrow's World*. That phrase 'solutions for tomorrow's world' reminds me somewhat of the Liberal Party's slogan a few years ago: 'The answer is Liberal'. Quite a few people said that if the answer is Liberal it must have been a very silly question.

In the same way, when I see a booklet like this, advancing this type of technology, promoting solutions for tomorrow's world, I ask: what sort of world is it that requires these sorts of solutions? The booklet quotes Terry Medley from the Animal and Plant Health Inspection Service of the US Department of Agriculture, as follows:

> We're looking at a doubling of the population in the next 40 years. We're looking at a need for food production increases of 250 per cent. At the same time, we're looking at dwindling resources for that food production. So clearly, biotechnology with its ability to improve yield, quality and nutritional value will help us in feeding today's and tomorrow's population.

Members of this place know my feelings about population growth because I have spoken about it on a number of occasions. There is this sense of an inevitable future: we are looking at a doubling of the population in the next 40 years. Why are we not doing something about that rather than addressing it as a bandaid measure and coming up with this sort of technology which is not suitable for the majority of consumers?

By coincidence, the day after I issued my media release, an article appeared in the Financial Review about Japanese consumers who are most concerned about genetically modified food. That article warned that Japanese consumers have extreme sensitivity in their attitudes in respect of food safety which includes genetically modified crops. My reaction to that is that we should take notice of that information because we are talking about large export markets for our food, and Japan is one of those markets.

If we want to be able to continue to hold that Japanese market for our food, the idea of clean, green food is definitely the way that we should go. Otherwise, the Japanese will not accept it. I predict that the first Australian company that markets its food with labels on it saying that it does not contain genetically modified products will be the one that takes off in the Japanese market.

*The Hon. T.G. Roberts interjecting:*

**The Hon. SANDRA KANCK:** Or chemical residues; that is a good point. Given that 90 per cent of Australians want labelling of their foods to indicate whether or not they contain genetically modified products, the Government might well

take heed of this. If Governments do not take heed of it, big companies such as Monsanto will take the lead.

Our Government might have faith in ANZFA and believe that uniformity is the way to go, but leaving the multinationals to set the agenda is not my preferred course of action and I do not believe that, in the longer term, it will serve our food producers, particularly our exporters, in any positive way. What I am trying to achieve with this legislation is greatly needed. It surprises me all the time how the marketers fight against it. They know that, if people have the choice, the majority of people will not buy foods that are genetically modified, so they will not allow this information to be put on the labels. It is vital that we set the lead in this to other States. I commend the Bill to the House.

Bill read a second time and taken through its remaining stages.

## EDUCATION (COMPULSORY SCHOOL AGE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October, 1996. Page 243.)

**The Hon. R.I. LUCAS (Minister for Education and Children's Services):** I oppose the second reading of this Bill. This will be one of the significant issues of difference between the Government position on education and that of the alternative Government or Labor Party. The Leader of the Opposition, the Hon. Mike Rann, has indicated that this is a key issue for him as Premier, another Labor spokesperson on education and for the Labor Party's education spokesperson, the Hon. Carolyn Pickles. The Hon. Mike Rann and the Hon. Carolyn Pickles have indicated that, if the Government opposes this issue, the Labor Party will campaign long and hard about it in the schools and, should they be elected to Government, this policy will be implemented by a Labor Government.

*The Hon. T.G. Roberts interjecting:*

**The Hon. R.I. LUCAS:** I am delighted to hear that the Leader of the Opposition and the Labor education spokesperson feel so strongly about this issue and will seek to make it a campaigning point. The Government strongly opposes this Bill. We see it as being ill-conceived. We see it as being an indication of a Labor Party and a Labor Leader that are sadly out of touch with the real world of education, in secondary schooling in particular. We see it as an indication of a Labor Leader and a shadow spokesperson who continue to look for the publicity stunt option and the knee-jerk policy response option, and this amendment Bill fits both descriptions. The Labor Party has been campaigning for some time, as indeed all members in this Chamber have expressed similar concerns, about the decline in retention rates nationally and in South Australia in our secondary schools. However, rather than looking at what the particular problems and concerns are by consulting teachers and principals in schools to find out what the response should be, the Leader of the Opposition and the Labor spokesperson have come up with this knee-jerk response which says that the simple solution is to raise the compulsory school leaving age to 16, and clearly from other statements that they have made their intention would be to lift the compulsory school leaving age to 17 as part of a long-term policy option.

As I said, I am saddened in one way, in terms of a sensible and rational debate about education policy, that the Labor Party will seek to make this an election issue but, if one wants to look at it in hard, cold political terms, as I said, I am delighted that the Labor Party has misjudged the real world of our secondary schools so badly as to believe that it could make this a winning election issue—

**The Hon. M.J. Elliott:** It must be Mike Rann, not Lea Stevens, who made this decision.

**The Hon. R.I. LUCAS:** Exactly, I understand the point—by seeking to make this a political issue. If the Hon. Mike Rann and the Hon. Carolyn Pickles had gone out to schools and spoken to teachers in secondary schools, in particular senior secondary classes, principals and others who are working with young people, I am sure they would have received a different response concerning what ought to be done. Clearly there is no one simple solution and, if there was, some Government somewhere would have resolved the issue by now. We in South Australia are the first to indicate that we do not believe that there is a simple solution to the issue of national decline in retention rates. It is a concern to all members and it is a concern to me as Minister for Education. It is something at which we have looked and after a long period of discussion and debate we indicated a major part of our policy response late last year when, together with Commonwealth funding, we committed almost an extra $12 million for a major new emphasis on vocational education programs within our secondary schools in South Australia.

Clearly, a significant percentage of young people are not intent on going on to university or tertiary education study. Clearly, there is a significant percentage of young people in our secondary schools who have made the decision that that is not their particular chosen career or training path and have been disappointed with the range of options available to them within secondary schools in South Australia and in other schools in other States and territories as well. The new $12 million initiative will see a very significant increase in vocational education options for young people in schools.

Most members might be familiar with one particular program, the TRAC program, where young people in many country and city school communities spend part of their school week in school, a day a week at a TAFE institute undertaking training and a day a week at a local retail or commercial outlet. It might be Woolworths, a jewellery shop or some store in a retail or commercial field. This program has been very successful because not all communities have a manufacturing option, for example, particularly rural and regional communities. That is why the TRAC option has become very successful and very popular with many school communities. It is only one example of the sort of option that we are looking to encourage.

There is one particular program—a credit to a previous Minister for the initial impetus for the program—the engineering pathways program, which is a program jointly developed between the engineering employers and the Department for Education and Children's Services, and with some assistance from TAFE as well. That program went through a downturn, but in the past three or four years it has taken off. We have some enormously successful engineering pathways programs in eight secondary schools in the metropolitan area and country and regional South Australia. So much so, that the big problem we have with the engineering pathways program is that after their first year, which is year 11, many of our schools with this program are having to struggle to hold on to—and I guess it is a bit of a paradox—the year 11 students from employers who want to grab the young students very quickly because they have demonstrated

in that first year the sort of skills that those engineering employers want in future employees. As I said, one of the paradoxes of the engineering pathways program is that it is enormously successful but we see a very big decline between year 11 and year 12 because, as I said, those young people are joining those engineering companies. The Hon. Mr Elliott and others from the South-East will know Millicent High School very well. Millicent has a very good engineering pathways program. I know from speaking to the teachers in that school that one of the issues for them is retaining those year 11 students to year 12.

That is one of the issues arising from this program and it is one of the challenges for Ministers for Education and Government departments. Clearly, a young person who has successfully negotiated year 11, the first year of a two year engineering pathways program, and who has impressed an employer so much that they have been employed, when they move out of school and into that job it is classified by the Australian Bureau of Statistics, Opposition Parties, whether they happen to be Labor or Democrat, as a failure of the system because that young person has not been retained to year 12.

The criticism that we get in relation to a successful program such as engineering pathways is that, because the young person has not gone on to year 12 but has gone into an engineering job, therefore the system has failed. As Minister for Education I struggle to see that as a failure. If a young person has successfully negotiated that position, then we hope they will continue with an apprenticeship or a traineeship of some sort. One of the advantages of the pathways program is that they undertake training modules which can be continued with the private training provider or with TAFE, but in the brutal world of politics, the media and parliamentary debate that person and those people are examples of a declining retention rate.

That is one of the issues. I know the teachers in those schools want their young people to stay on to year 12 and to complete the second year of the pathways program. I have spoken to the teachers. I know the paradox, the conflicting views that they see, but, in the end, most of them say, 'Look, if the young person is happy, is getting a job and is going on to further training', then, in the end, they do not obviously stand in their way.

I am not saying that the entire decline in the retention rate is due to young people going into employment. I do not want anyone jumping up saying that that is what I have just said, because that is not what I am saying. Clearly, there are other reasons for declining retention rates, but I am highlighting one of the paradoxes of this issue. I am highlighting one of the dilemmas for schools and teachers when, with a successful program like pathways, young people want to move out. As another example, there is a fantastic program with Email, the whitegoods manufacturer, with two Government high schools and two non-government high schools in the north-western suburbs. If any members who are not aware of that program are interested and have time, I would recommend that they visit schools such as Ross Smith Secondary and the two non-government schools in that area, together with the Email training provider.

It is a terrific program. Again, it is a two year program in which those young people are getting the South Australian Certificate of Education if they remain for the two years. They undertake training with the private training provider through the Email whitegoods company, which is clearly interested in this because it believes that it gets people specifically trained for Email who know something about what Email is about and who have the sorts of skills Email wants from future employees. They undertake almost the equivalent of the first year of an apprenticeship whilst, at the same time, getting the South Australian Certificate of Education at year 11 and year 12. It is an excellent program but, again, there is that same problem as we have with the engineering pathways program whereby, at the end of the first year, there is the temptation for some young people to want to opt out of the school system and move directly into employment and to continue with their training through the private training provider or perhaps with TAFE.

In terms of the retention rate figures, that would be another example of a failure of the Government school system but again, as Minister, I cannot recognise that as a failure of the system if a young person has a job at Email, is happy, is drawing an income and is still undertaking training as part of his or her personal development. There are a number of those programs, and this $12 million that we are putting into secondary schools in South Australia will enable a significant increase in those types of programs. I am the first to concede that I am highlighting the examples of best practice that exist within our Government schools: there are other examples that would not be quite at that level of quality as yet. That is why we are putting in the additional money over these next few years to enable more schools to offer a variety of programs such as the Email program, the engineering pathways program in manufacturing and the TRAC program for retailing and commerce.

There are programs in hospitality and tourism; programs are coming up in recreation and sport; there are programs in the fishing and aquaculture industry on the West Coast and elsewhere, with which I am sure my colleague the Hon. Carolyn Schaefer would be familiar; and there is a program on viticulture. There is a range of industry-based programs where we hope to see young people completing as much of their South Australian Certificate of Education as possible—and hopefully all of it—while at the same time undertaking the first module of training units and gaining real world experience in an industry. Hopefully, they are not only getting that South Australian Certificate of Education but moving on to a job when they leave their secondary school.

We believe that that is the way to tackle the problem of retention rates and declining interest by young people in secondary schools. We do not believe in the knee-jerk response option that says that we will construct a prison wall around our secondary schools and increase the leaving age to 16 as a first step to increasing it to 17, and lock every young person into school or a TAFE program until the age of 16 or 17. Sadly, that is the knee-jerk policy response supported by the Labor Party. I must admit that I am very surprised that a Party comprising ex-union representatives and secretaries such as the Hon. George Weatherill, the Hon. Trevor Crothers, and the Hon. Ron Roberts in particular, representatives of the working class, and representatives of manufacturing based unions like the Hon. Terry Roberts, for example, in the metals and manufacturing area, would want to adopt a response such as the one that has been suggested; that is, that you just increase the compulsory school leaving age to 16. As I understand it, the clear intention of the Hon. Mike Rann is to further increase it to 17 as the second step in the program. That, I think, is the major philosophical difference in this area between the Government and the Labor Party. It is a stark difference and, as I said earlier, I am pleased on both educational and political grounds to debate that philo-

sophical difference between a Liberal Government and a Labor Government in relation to this important issue.

I want now to turn to the more practical problems that would confront our schools if a Labor Government were successful in increasing the school leaving age to 16 or 17. First, if the Hon. Mike Rann had spoken with teachers and principals in schools and actually looked at the difficulty that our hard working teachers and staff within the secondary school system at the moment are having with a small percentage of the student population who are disinterested in schooling but who are being retained within the secondary school environment because either they cannot get a job, they are not interested in a job or they cannot get Federal—

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** Exactly; if they cannot get some sort of Federal benefit, they will equally—

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** I speak without fear or favour. They will equally create further problems for our secondary schools. If we have a situation where people who do not want to study and who do not want to work within secondary schools are forced, through any combination of factors—whether it be the Hon. Mike Rann's saying that they are compelled to stay at school until they are 16 or 17 and if they do not then they or their parents will get fined, or whether it be a Federal Government's policies that close off options, which financially force you—to stay at school, in practical terms it is a recipe for disaster for secondary schools. What you will have is a larger percentage of young people who are disinterested, who are disruptive, who are intent on causing as much disruption as they can within the school environment.

They are resource-intensive students, if you want to use the jargon. They use up huge amounts of administration time of principals and deputies, huge amounts of counsellor time and huge amounts of special education time. Huge amounts of all the additional assistance that is provided by the department and by taxpayers for secondary schools are used up by a small percentage of students who do not want to be at school but who, for a variety of reasons, are staying on in the school environment and not being challenged by whatever programs might be offered at that school. If we as a Parliament were to accept the Labor alternative in relation to this issue, we would in effect be condemning many of our secondary schools and secondary school teachers to a cycle of increasing disruption by a larger percentage of students within those secondary schools who do not want to be there; who are not interested in learning; who will not only ruin the learning for themselves but who are intent for ruining it for all their classmates.

**The Hon. P. Holloway:** What will they do if they leave school?

**The Hon. R.I. LUCAS:** Obviously, the Hon. Paul Holloway's response is that we leave them in school and compel the teachers in the schools to cope with these young people within the school system. Our response is that we should try to encourage them in a range of vocational options to encourage them to stay on, but for them to make their own decision rather than being compelled by a Labor Government's policy to stay on; to encourage them to choose to stay on with a vocational option.

The Hon. Paul Holloway's response is, 'Don't worry about that, we will compel them and, if we compel them, they will stay there and there will not be a problem.' I suggest that the Hon. Paul Holloway visits the secondary schools in his electorate, such as the Hamilton Secondary College which was near to the area he represented. Speak to people like Nick Hardie and others who offer the Engineering Pathways program at Hamilton Secondary College in relation to these issues. Again, the Hon. Paul Holloway demonstrates the ignorance, in educational terms, of the Hon. Mike Rann and the Labor Party in relation to potential solutions to the problem of declining retention rates within South Australia and other State and Territory school systems.

The issue of raising the school-leaving age was raised during the consultation process for the Youth Employment Task Force report early last year. In fact, one of the key recommendations of the Youth Employment Task Force for the Government's consideration was raising the school-leaving age incrementally to 17 years of age by the year 2000. When that recommendation of the Youth Employment Task Force was put out to consultation there was an overwhelming negative response. The vast majority of respondents did not support the proposal to raise the school leaving age. I paraphrase some remarks made by some schools: Parafield Gardens High School does not agree with raising the school-leaving age; it is concerned that compulsion would cause an increase in behaviour problems; increased retention rates could be achieved by expanding a range of provisions within schools; and more educational alternatives could be provided outside school to meet the needs of a greater range of students.

The Ardrossan Area School expressed a great deal of concern at raising the school-leaving age and said that it would put off the problem for only two years. Four or five other reasons are given as to why the school opposes the raising of the school-leaving age. In the non-government school system, St Joseph's School, Port Lincoln, had difficulty with the suggestion to raise the school-leaving age. The school believed that to keep students who do not have academic aspirations at school could be detrimental to their own development because they might have a yearning for employment in an occupation of a physical nature, and said, 'These students are likely to become a disruptive element in the school.'

That is a selection of Government and non-government school responses, together with many other people who are active and working with young people in the TAFE system and in the community, the vast majority of whom strongly opposed this proposition from the Youth Employment Task Force. However, it is a proposition that has now been taken up by the Hon. Mike Rann and the Hon. Carolyn Pickles in this Bill. I think that the Labor Party might have moved this Bill after the first report and before the consultation process indicated what everyone thought about it. I have been critical of the Hon. Mike Rann in many areas and one area is his tendency to the knee-jerk policy response. As soon as something is put up it demands an immediate knee-jerk policy response to the first idea that comes into his mind which, sadly, is the one he runs with. This is another example of an ill-considered, educationally and politically naive response but, nevertheless, it is his and the Hon. Carolyn Pickles' response to what is a significant policy issue for Government and non-government schools in South Australia.

We have looked at trying to estimate the number of problems that might eventuate if the school-leaving age were raised to 16 or 17. The figures at this stage are only best estimates because it is difficult to estimate exactly what the impact might be, but certainly the initial estimates of raising the school-leaving age to 17, which was a recommendation

of the Youth Employment Task Force, was that potentially there might be an increased cost to taxpayers in the system of up to about $40 million per year. One issue the community would need to examine is, if you had an extra $20 million, $30 million or $40 million, is this the best way within our school system of spending it, or would a better way be the response adopted by the Liberal Government, that is, putting more money into vocational education options and special education programs as we have done and would like to continue to do in terms of providing additional support, and putting more money into early assistance programs as part of our early years strategy?

Certainly, as a Liberal Government, we will be adopting a policy response that says, 'No, do not go down the Mike Rann path of spending an extra $40 million, or so, on compelling students to stay in secondary school, but go down a path (if you have that money) of spending that money on areas such as vocational education options, the early years strategy and special education for students, whether they be in primary or secondary schools.' Again, there is a clear philosophical educational difference between a Liberal Government and the Labor alternative in terms of how we would spend additional money in education over the coming years.

Another problem with the options before us is that we have a very significant percentage, as I have already indicated to members, of part-time students within our year 12 program. Between 25 per cent and 30 per cent of our year 12 students are part-time students. That has been a deliberate policy option we have adopted in South Australia. With the introduction of the South Australian Certificate of Education in 1992-93, the previous Government deliberately, with the support of both the Democrats and the Liberal Party, supported the option of young people completing year 12, or stage two of the South Australian certificate, over a number of years. Students need not complete it all in the one year.

South Australia has, as I said, the highest percentage of all mainland States—I think rivalled only by Tasmania—of part-time year 12 students. As I said, almost one-third of all our students, between 25 per cent and 30 per cent—let us be accurate—in our secondary schools are part-timers. They are students who might be studying two, three or four year 12 subjects at the same time as they are working, because they need to work or perhaps because they have chosen to undertake studies to maximise their point score in terms of a university entrance. They are concentrating on three subjects in one year and perhaps two or three in the following year.

At this stage, under the Labor plan, students under 16 certainly would not be able to look at that option of working and studying. It is certainly not as much of a problem if the compulsory school leaving-age were raised to 17 because, clearly, once you reach 17 the number of young people who would be both studying and working would be much higher than up to the age of 16.

Clearly, the problem would be more significant if the school leaving age were raised to 17, but we know that some up to the age of 16 are trying to combine part-time work with study. In effect, the model before us would be saying to those young people that that is not an option. Again I say to the Labor Party that members will be surprised if they go out to their local secondary schools and find out how many of our students are working part-time, even though they might be studying full-time. But I am now talking about those who are working and studying part-time, so that at year 12 they might be doing half and half. A number of young people in years 9 and 10 in secondary schools have part-time jobs at McDonald's and Hungry Jack's and a variety of other retailers, such as the local shopping centre, doing stocktakes and so on; you would be surprised at the significant percentage of young people who are combining both those options. As they move through year 10 in particular, some of those young people move to a combination of both part-time study and part-time work. That increases at Year 11 and again at Year 12.

The Labor Party has not considered a number of those significant practical problems in proposing this knee-jerk policy response in the measure before us. The Government opposes the measure for many other reasons but, given the hour and the fact that the Government's position on this has been made clear since late last year, I do not intend to delay the proceedings of the Chamber by going through the detail. Again I state the Government's strong opposition and welcome the fact that the Leader of the Opposition and the Labor education spokesperson have said that this is a significant issue for the Labor Party and one which a Labor Government would definitely introduce, should it be elected. I certainly welcome the debate not only in this Chamber but also in the schools and the real world in relation to this ill-conceived motion.

**The Hon. M.J. ELLIOTT:** I oppose the second reading of this Bill. The Education Minister had better savour the moment, but I agree with most of what he said. He claims I do not do so, but he must have changed his speech writer or something.

**The Hon. R.I. Lucas:** Have I become a Democrat?

**The Hon. M.J. ELLIOTT:** I don't know what's happened to you, but you've changed your speech writer or something.

*The Hon. R.I. Lucas interjecting:*

**The Hon. M.J. ELLIOTT:** Actually, she has been off sick for the past couple of days, so obviously she has been the trouble. I oppose the second reading of the Bill, because I was a high school teacher, I taught children of this age group and I know precisely what the consequences would be; the Education Minister is right. I noted that by way of interjection the Hon. Paul Holloway asked whether the Minister is suggesting we put the age down. It must be admitted that most often when an age is provided in any legislation a bit of arbitrariness is involved and there are always shades of grey on either side, but I do think that 15 is about right. Having taught in a high school, I know that at year 8 the kids are pussycats; they are still pretty easy. By year 9 they are getting a bit testy, and by year 10 they are even testier. Those who have turned 15 and who do not want to be there leave, and years 11 and 12 tend to improve again.

That is putting things in very simple terms, but kids are undergoing both physical and mental change during those ages. Whilst you may be able to keep a person at school and generally cooperative while they are 13 or 14 years old, as they get older, keeping them there against their will is not advisable, and nobody gains from it. The challenge for schools is to produce something that is relevant so that people want to be there, and that is what we should be doing. The Hon. Mike Rann should have set a goal in terms of retention or at least in terms of people who are not at school or employed. Nobody wants to see people in that situation. If a young person of about the age of 16 or 17 is neither at school

nor employed, clearly we have a problem, but simply using compulsion to get them back at school will not—

*The Hon. R.R. Roberts interjecting:*

**The Hon. M.J. ELLIOTT:** I will not argue with you about that, but saying they must go to school is not the answer: a desire to have them at school is correct. We should be looking at the school structures and thinking of ways to increase our chances of keeping students there. It is not simple. The Minister is right in saying that we have to go back to the earliest days and make sure that they are getting a good, solid footing because, once a student gets behind at school and if they are struggling with literacy or anything else they will become more reluctant learners later on in the piece.

For a long time I have been a proponent of quite radical restructuring of our school system so that middle schools, from years 7 to 10, become the order of the day. I would suggest not just clustering kids into that age group but also some methodological changes. We can make years 7 to 10 far more rewarding than they are now if we change structures. I do not think the current high school structure looks after those children very well at all. It is my belief that teaching methodologies should be changed and, in particular, the number of teachers that an individual student has should be reduced. There is too much changing of teachers in those age groups. I do not think a student in year 8 should have more than four teachers. At present they could have up to 10 or 11, and that does not create the sort of stability that is necessary. We must also look at the structure of subjects to provide more continuity, but I will not explore that further at this stage.

Ultimately, we must look at relevant courses in those later years beyond compulsion. Certainly, some of the schemes that the Minister talked about are very valuable. I also have no doubt that cutbacks in education which occurred in the last budget of the former Labor Government and which then continued in the next couple of budgets of the new Liberal Government had a significant impact on our high schools. The high schools were not capable of providing the variety of courses and class sizes they used to be able to offer. Whilst being right about the need for some new courses, the Minister does not seem to admit his own mistake in cutting back resources, which also meant that some quite relevant courses were removed due to cost pressures created by both this and the previous Government.

But that is where the answer lies. The answer lies within the education system itself and producing relevant courses. It involves changes in methodology and resourcing. Unless we are prepared to do those two things, we will not solve our youth unemployment problem. Certainly, we will create a whole lot of new problems by taking what is a very simplistic notion of using compulsion as a way of getting people off the unemployment queues by putting them back into schools. That simple device will probably do nothing for the people whom we have compulsorily sent back to school and will probably significantly reduce the education experience for those who are still there. It only takes one or two students in a class to cause quite significant disruption, particularly at that age level.

Once you are past the age of compulsion the school has the ultimate discipline of saying: 'If you want to be here, behave; if you don't, you're gone.' In fact, that is the only discipline that really works with older students. What the Labor Party would do with this sort of amendment is create a right for them to be at school and make it more difficult to remove them if they are not complying with what the school requires. In fact, this would undermine discipline quite significantly by increasing the age of compulsion, because there are other things that go along with that, including the right to be at that school almost regardless of behaviour. It is very difficult to remove people below the age of compulsion.

For the reasons outlined, I oppose the second reading of the Bill. I can only assume that the proponents of this Bill had not spoken enough with practitioners to realise its real consequences, although I do not doubt that they did it for the best of motivations.

**The Hon. R.R. ROBERTS** secured the adjournment of the debate.

## NON-METROPOLITAN RAILWAYS (TRANSFER) BILL

**The Hon. DIANA LAIDLAW (Minister for Transport)** obtained leave and introduced a Bill for an Act to provide for the implementation of a Commonwealth-State agreement relating to the privatisation of non-metropolitan railways; and for other purposes. Read a first time.

**The Hon. DIANA LAIDLAW:** I move:

*That this Bill be now read a second time.*

The future of Australian National (AN) has been compromised since the creation of National Rail (NR) by the former Federal Labor Government in 1992. At that time AN lost the major part of its profitable interstate operations, but was left with large debts, which have grown, and no long-term business plan. In good faith the work force has sought to restructure the business as a viable rail operation, in the process shedding some 8 000 jobs in the past decade. But they have been betrayed. Federal Labor left them with a poisoned chalice.

Last year Mr John Brew was appointed to review the operations of AN and NR, following which the Commonwealth Government resolved that AN's future as a public enterprise was not sustainable—and that it would be sold. In fact, the Commonwealth has decided to withdraw from rail operations altogether, and next year plans to sell its share of NR. If these two sales are effected as planned, the Commonwealth will retain responsibility for only the AN-owned interstate track network.

Today, it is fair to say that AN is in caretaker mode. Morale is low and key skills are being lost as people seek alternative employment, which in turn is affecting AN's service performance. In the interests of AN employees, contractors and customers, this situation cannot be allowed to drag on unresolved. These Government decisions have major ramifications for South Australia. Rail is a vital component of the State's transport network. Both AN and NR have significant business activities in South Australia and are major employers. From the start, the State Government has accepted the sale of AN as a sad but inevitable outcome of years of poor policy and bureaucratic inertia stemming from Canberra.

So, rather than frustrate the sale, we have taken a positive stand, resolving to work with the Commonwealth to secure the best outcomes for South Australia in terms of long-term, viable rail operations and jobs. To this end, the Government has consistently stated that our preferred position is for AN's interests now for sale in SA to be sold as a whole. The Commonwealth has accommodated this view, structuring the sale to provide the best prospect for ongoing rail operations. The Commonwealth and the State have also agreed that the continued vertical integration of intrastate freight rail services

is appropriate for what generally are single user lines. This means that any new operator will own both the track and services, except in the case of the Leigh Creek line, which I shall refer to later.

Meanwhile, the Commonwealth has recognised that to meet the State's obligations under the Competition Principles Agreement and to protect the interests of rail users in the context of private monopolies a second Bill be introduced to establish an access regime to ensure the possibility of competition. As honourable members will be aware, the State has a number of rights under the legislation introduced in 1975 to give effect to the transfer of the non-metropolitan part of the former South Australian Railways to the Commonwealth. The 1975 transfer agreement has provided some leverage to negotiate with the Commonwealth regarding the sale outcome—but only in relation to ex-South Australian rail assets. This is a critical point to understand when considering this Bill.

Prior to 1975 all the rail business in South Australia north of Port Pirie, including the Leigh Creek line and the workshops at Port Augusta, were the responsibility of the Commonwealth and, therefore, are not subject to the terms of the 1975 transfer agreement.

With respect to the Railways Agreement 1997, the Government has now negotiated and signed a new agreement with the Commonwealth which secures substantial benefits for South Australia, our rail industry and users, whilst enabling the Commonwealth to proceed with the sale of AN in a way that provides the best prospects for a viable future for rail and rail jobs in South Australia.

The 1997 railways agreement, which is a schedule to the Bill, addresses only those parts of AN now available for sale. It therefore preserves the State's rights under the 1975 transfer agreement to those aspects of AN not being sold at this time, that is, the ex-SA Railways interstate track and the Islington freight terminal. Other positive features of the agreement include:

1. The transfer at no cost to the State of all former SAR and Commonwealth land now owned by AN in SA (excluding only the interstate rail corridors and a few specific parcels) that are identified in a schedule of the Agreement;

2. 'Step-in' rights for the State to the infrastructure on this land as a safeguard against non-performance by the new owner and against asset stripping;

3. Securing for the State the infrastructure on the Leigh Creek line, which in turn will give greater security to the future of power generation at Port Augusta;

4. The standardisation of the Pinnaroo line by the Commonwealth within 12 months of the sale, with a contribution of one-third of the cost, up to $2 million, by South Australia;

5. Options for re-opening of the South-East lines through the inclusion of these lines in the sale process, with provision for the State to find another buyer if these lines are not taken up by the successful bidder for AN;

6. Provision for bidders to nominate the freight and passenger services they intend to provide, and for this level of service to be a criteria for step-in rights; and

7. The completion of the Commonwealth's environmental remediation program for continuing Commonwealth liability in respect of its occupation of the land, and if needed, for SA to access unexpended funds from this program for any further works required resulting from pre-1975 contamination of the ex-SAR land (that is, that may have been missed or inadequately dealt with in this program).

Separate to this agreement, the Commonwealth has agreed to fund the $2 million additional cost to the State in superannuation liabilities that arise as a consequence of the sale of AN for AN employees who are contributors to the State Superannuation Scheme, plus a $20 million rail reform package to fund new job creation projects. Accordingly, considering the current plight of AN, the 1997 transfer agreement is a good outcome for the State. It guarantees investment over the next 12 months in the upgrade of both the Leigh Creek and Pinnaroo lines and establishes the base for rail in South Australia to once again become a viable competitor to road.

*The Hon. M.J. Elliott interjecting:*

**The Hon. DIANA LAIDLAW:** It does not. In fact, with Mount Gambier the line has not operated for years, and now there is an option for it to do so again, and that is good news. However, for the agreement to take effect, and for the State to be eligible for the rail reform funds, it is necessary for this Bill to be passed so the Commonwealth can proceed promptly with the sale of AN.

Last month the Commonwealth passed its sale legislation and is now free to sell those parts of AN not subject to the 1975 transfer agreement. These include the Port Augusta workshops, the Leigh Creek line and the Ghan and Indian Pacific services, as well as the Tasmanian services. Rather than this piecemeal approach and/or the closure of the rest of the business, it is now necessary to pass this Bill releasing the Commonwealth from its obligations under the 1975 agreement as it affects all of AN's business now available for sale.

The new agreement has been negotiated as a package on the basis that the State will relinquish these rights, while the State does not intend to proclaim the legislation embodying this agreement until it is satisfied with the new owner and its economic development plans. Clearly, it is preferable that AN's South Australian operations be sold as a whole, and that the benefits of this agreement are achieved for the State.

The proposed Bill.

The Non-Metropolitan Railways (Transfer) Bill 1997 provides the framework for the sale of AN and the transfer to the State of Commonwealth land. The Bill—

1. ratifies the railways agreement, thereby permitting the sale of parts of AN which the State owned pre-1975;

2. authorises the Minister to enter into land leases to the new operator(s), which will contain the step-in provisions;

3. vests land in the Minister, and provides for certificates for identification of real or personal property;

4. severs track infrastructure so that it may be dealt with separately, allowing the Commonwealth to sell this;

5. provides a five year exemption from council rates and land taxes, as a concession to assist the new operator(s) to become established; and

6. provides a short exemption from liquor licensing to cover the time needed for processing of an application lodged by the interstate passenger operator in the various States.

In conclusion, the future of rail in South Australia will inevitably be very different from the past. To give rail in South Australia the best chance of being a strong contributor to our transport system, to our economy and to employment, it is important that the best is made of the current opportunity presented to attract a viable new operator to the State, and to secure a strategic stake in the system through land ownership by the Government. The Non-Metropolitan Railways (Transfer) Bill 1997 will provide these outcomes. I commend the Bill to members and seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

The provisions of the Bill are as follows:

*Clause 1: Short title*

Clause 1 is formal.

*Clause 2: Commencement*

The measure will be brought into operation by proclamation.

*Clause 3: Interpretation*

The Agreement referred to in this measure is the agreement set out in the schedule. A word or expression used in this measure that is defined by the Agreement has the meaning assigned by the Agreement (unless the contrary intention appears).

*Clause 4: Railways Agreement*

The Minister's execution of the Railways Agreement set out in the schedule is authorised and ratified. The Railways Agreement is to bind the State and the Minister and other instrumentalities and agencies of the State are authorised and required to do anything necessary to give effect to the Railways Agreement.

*Clause 5: The Ground Lease and Passenger Facilities Lease*

The Minister is, in accordance with the terms of the Railways Agreement, authorised to enter into the proposed Ground Lease and the Passenger Facilities Lease.

*Clause 6: Vesting of land*

Land is to be transferred to the State under the Railways Agreement and vested in the Minister for an estate in fee simple.

*Clause 7: Ministerial certificates*

This is an evidentiary provision with respect to the identification of real or personal property affected by the Railways Agreement.

*Clause 8: Severance*

Track infrastructure under the Railways Agreement will be taken for the purposes of the laws of the State to be severed from the land to which it is affixed so that it may be dealt with as personal property.

*Clause 9: Exemption from rates and taxes*

This clause provides for a 5 year exemption from land tax, and rates and other local government imposts, for certain land transferred under the Railways Agreement.

*Clause 10: Interaction between this and other Acts*

This measure (and the Agreement) will prevail over the 1975 arrangements, and the arrangements relating to the Tarcoola to Alice Springs Railway, to the extent of any inconsistency.

*Clause 11: Liquor licensing exemption*

This clause will grant a six-month exemption from the liquor licensing provisions for the purposes of the Passenger Facilities Lease (as envisaged by the Agreement).

**The Hon. T.G. ROBERTS** secured the adjournment of the debate.

## RAILWAYS (OPERATIONS AND ACCESS) BILL

**The Hon. DIANA LAIDLAW (Minister for Transport)** obtained leave and introduced a Bill for an Act to provide for the operation of railways and access to railway services on fair commercial terms; and for other purposes. Read a first time.

**The Hon. DIANA LAIDLAW:** I move:

*That this Bill be now read a second time.*

In the rail sector reforms under way around Australia are leading to a greater presence of private operators in what has traditionally been a public sector monopoly. This trend follows successful international experience with private rail operations in the United States, Britain, New Zealand and elsewhere.

In Australia, three firms (SCT, Toll-TNT and Patricks) have started providing private interstate rail freight services in competition with National Rail. In Victoria, the State Government has contracted two of its regional passenger rail services to private operators with plans to contract out others—and to sell V-line. Meanwhile, the Commonwealth Government passed legislation last month to permit the sale of AN, and next year plans to sell its share of National Rail.

It can be anticipated that privatised rail operations will expand throughout Australia over the next few years, especially in the context of the competition principles agreement, to which South Australia is a signatory, and the Trade Practices Act. So, irrespective of the AN sale issue, the private sector is likely to be a major provider of rail services in South Australia in the future.

While National Rail and AN are Commonwealth owned they are subject to Commonwealth rather than State legislation. Commonwealth rail operations have thus enjoyed exemption from a range of State regulation and taxation that would not be available to private operators, unless specific provisions were made.

Until recently there has been no need for specific legislation in South Australia to accommodate private rail operations or competition on rail. However, last year the Parliament passed the Rail Safety Act 1996 in recognition of the increasing need to provide for new and different operators of rail services.

Now there is also a need for South Australia to introduce legislation to provide an appropriate regulatory framework for rail operations in the State, in addition to the safety matters already covered. In particular, there is a need to provide suitable powers to ensure that rail operations can be undertaken efficiently and effectively, to ensure that rail corridors are afforded competitive neutrality with roads and to provide an access regime that addresses competition issues in the context of possible monopoly power in private hands.

The vertical integration of the track and the services under the control of one rail operator, whether publicly or privately owned, is a common model for rail operations. In such circumstances, the rail customer can be vulnerable in terms of service standards and freight rates, with the only option being to transport goods by road, which can be undesirable in community and safety terms. It is important, therefore, that arrangements are now made to enable access by third parties to essential rail infrastructure. Third party access promotes competition, which in turn will encourage the rail operator to provide best practice service to customers.

Honourable members will appreciate that this approach is consistent with the competition principles agreement and the Trade Practices Act. However, as these measures would not necessarily cover all our intrastate rail services, and in any case would involve costly and time-consuming processes, the Government considers that it is necessary to introduce a State access regime—but one that is light handed, as was enacted last year for access to our gas pipelines.

This Bill complements, but does not depend upon, the Non-Metropolitan Railways (Transfer) Bill 1997 that the Government is also introducing to Parliament with this Bill to enable the Commonwealth to sell AN's intrastate and passenger services, and to provide the State with strategic control over South Australian rail land (and, if it should be necessary, the rail infrastructure as well).

The Railways (Operations and Access) Bill 1997 provides a flexible and efficient regulatory framework for rail operations in South Australia. With respect to rail operations, the Bill provides for:

1. land acquisition that may be needed for expansion of the rail system;
2. infrastructure to be dealt with as personal property, consistent with State ownership and leasing of land as proposed under the Non-Metropolitan Railways (Transfer) Bill;
3. the installation of traffic control devices by the operator and powers for the operator to authorise persons to control traffic in connection with the safe operation of the railway;

4. exemption of rail corridors from requirements for fencing, from council rates and land taxes, to ensure that rail corridors are not at a disadvantage to road corridors;
5. ministerial authorisation to sell liquor and provide gambling facilities, so as to accommodate the special circumstances of national passenger services (such as in traversing different State jurisdictions) where these are not provided for by existing legislation; and
6. the making of by-laws by the Governor where these are required for effective rail operations.

In respect to the establishment of an access regime, the Bill provides for:

1. the proclamation of aspects of the rail service for coverage by the access regime as may be needed;
2. the segregation of rail business from other businesses and the segregation of accounting so as to ensure access can be established on grounds that are fair to both parties;
3. the appointment of an administrator so that a party with an access agreement can still be provided with a service if the rail operator fails to do so;
4. commercial negotiation of an access price between a floor and a ceiling price established according to principles set by the regulator, which is consistent with the Competition Principles Agreement, and necessary if the State's access regime is to be considered 'effective' and therefore take precedence over the national regime;
5. the development of an access information brochure by an operator when faced by an access application; and
6. arbitration and dispute resolution on a similar basis to that in place for pipelines.

The intention of the access regime is to minimise the imposition on an operator whilst ensuring another rail service provider can gain access to essential services. It provides a framework for access to be negotiated on fair terms as well as recourse to arbitration if needed. The regime may be invoked progressively as follows:

1. an access applicant may successfully negotiate access with the operator on any basis, in which case the regime is not triggered at all;
2. if this is not likely to be achievable or is unsuccessful, an application is made to the operator who must then provide an access information brochure, setting out the floor and ceiling prices and other access terms;
3. negotiation then takes place to set a price within this range;
4. if unsuccessful, the applicant may seek arbitration and the regulator may first attempt a conciliation;
5. if this is unsuccessful the regulator must then appoint an arbitrator, who would determine the access conditions and price according to principles set out in the Bill; and
6. this determination may be appealed but access must be granted on these terms while the appeal is heard (unless otherwise determined by the court).

The Bill also provides for the regulator to have the powers necessary to monitor costs and obtain information.

Overall, the Railways (Operations and Access) Bill 1997 will provide the necessary framework for competitive, best practice rail services in South Australia—an outcome that offers the best opportunity for the revitalisation of rail in South Australia and long term job security. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

The provisions of the Bill are as follows:

PART 1
PRELIMINARY

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

The measure will be brought into operation by proclamation.

*Clause 3: Objects*

This clause sets out the objects of the Act, which include to promote a rail transport system in the State that is efficient and responsive to the needs of industry and the public, to provide for the operation of railways, to facilitate competitive markets in the provision of railway services and to provide access to railway services on fair commercial terms and on a non-discriminatory basis.

*Clause 4: Interpretation*

This clause sets out the terms that are defined for the purposes of the measure.

*Clause 5: Joint ventures*

This clause provides for joint and several liability with respect to the obligations under the measure in the case of a joint venture. The participants in a joint venture will be able to nominate a person who is able to act as a representative on their behalf.

*Clause 6: Application to railways*

The Act, other than the access regime (*see clause 7*), will apply to all railways in the State. However, the Governor will be able to exclude a specified railway from the application of the Act or specified provisions of the Act.

*Clause 7: Application of access regime*

The access regime will apply in relation to operators and railway services to the extent specified by proclamation.

*Clause 8: Crown to be bound*

This clause makes express provision with respect to binding the Crown in all its capacities (so far as the legislative power of the State extends).

*Clause 9: The regulator*

This clause permits the Governor to assign the functions of the regulator under the Act to a nominated authority, officer or person.

PART 2
CONSTRUCTION AND OPERATION OF RAILWAYS

*Clause 10: Land acquisition*

An operator will be able to acquire land for the construction or extension of railways with the written consent of the Minister. The *Land Acquisition Act 1969* will apply to an acquisition under this clause.

*Clause 11: Fixed infrastructure may be dealt with as personal property*

It is intended that fixed railway infrastructure will not merge with the land to which it is affixed and may be dealt with as personal property.

*Clause 12: Traffic control devices*

An operator will be able to install and operate traffic control devices as required.

*Clause 13: Powers of authorised person*

This clause will empower authorised persons to give directions associated with the safe operation of a railway, or to deal with an emergency.

*Clause 14: Special reports*

An operator will be required to provide a report to the Minister, on request, about a particular aspect of the operator's operations, or about a particular incident related to the operation of a railway.

*Clause 15: Rail corridor need not be fenced*

An operator will be exempt from the requirement to fence a rail corridor.

*Clause 16: Exemption from rates and taxes*

A rail corridor will be exempt from land tax and local government rates and compulsory charges.

*Clause 17: Industry participant not to be common carrier*

An industry participant will not be a common carrier.

*Clause 18: Ministerial authorisation to sell liquor*

The Minister will be able to authorise a person who is providing a passenger service to sell and supply liquor. The regulations will be able to address any necessary modifications to the *Liquor Licensing Act 1986*.

*Clause 19: Ministerial authorisation to provide gambling facilities*

The Minister will be able to authorise a person who is providing a passenger service to provide and operate gambling facilities. The regulations will be able to address any necessary modifications to the laws of the State relating to gambling.

*Clause 20: By-laws*
The Governor will be able to make by-laws in relation to matters connected to the operation of a railway.

PART 3
CONDUCT OF OPERATOR'S BUSINESS

*Clause 21: Segregation of businesses*
An operator will only be allowed to carry on an authorised business, as defined by subclause (2).

*Clause 22: Segregation of accounts and records*
Special accounting requirements will apply in order to assist in the implementation of the access regime.

*Clause 23: Unfair discrimination*
An operator must not unfairly discriminate in relation to access to a railway. An operator must not unfairly discriminate between a proponent and other industry participants, or between various industry participants.

*Clause 24: Preventing or hindering access to railway services*
An operator or industry participant, or related body corporate, is prohibited from engaging in conduct for the purpose of preventing or hindering access.

*Clause 25: Appointment of administrator*
The regulator will be able to apply to the Supreme Court for the appointment of an administrator of an operator's business and assets if the operator becomes insolvent, or fails to make efficient and effective use of its railway infrastructure in the State.

PART 4
PRICING PRINCIPLES AND INFORMATION RELEVANT TO ACCESS

*Clause 26: Pricing principles*
The regulator will prepare pricing principles for the purposes of the legislation.

*Clause 27: Information brochure*
An operator will be required to prepare, on application, an information brochure giving general terms and conditions on which access may be provided.

*Clause 28: Operator's obligation to provide information about access*
An operator will be required to give a person with a proper interest in making an access proposal detailed information about the operator's railway infrastructure, the extent to which the infrastructure could be altered to meet proposed requirements, and generally the terms and conditions on which access might be provided. A charge may be made for information provided under this clause.

*Clause 29: Information to be provided on non-discriminatory basis*
Information is to be provided to persons interested in making access proposals on a non-discriminatory basis.

PART 5
NEGOTIATION OF ACCESS

*Clause 30: Access proposal*
A person who wants access to a railway service or to vary an existing access contract may put an access proposal to the operator.

Notice of the nature and extent of the proposal is required to be given to other proponents and industry participants who, together with the operator, become respondents to the proposal.

*Clause 31: Duty to negotiate in good faith*
The respondents to an access proposal are required to negotiate in good faith.

*Clause 32: Limitation on operator's right to contract to provide access*
An operator is prevented from entering into an access contract unless all other proponents and industry participants required to be given notice agree or unless the operator gives written notice of the proposed access contract and either there is not formal objection to the notice or all objections made are withdrawn.

A contract entered into in contravention of the section is void.

PART 6
ARBITRATION OF ACCESS DISPUTES

*Clause 33: Access dispute*
This clause sets out the circumstances in which an access dispute exists.

Essentially, a dispute exists after negotiations have broken down.

*Clause 34: Request for reference of dispute to arbitration*
Where there is an access dispute, a proponent may request the regulator to refer it to arbitration.

*Clause 35: Conciliation and reference to arbitration*
On receipt of a request, the regulator must attempt to settle the dispute by conciliation, or appoint an arbitrator and refer the dispute to arbitration.

The regulator is not obliged to refer a dispute to arbitration if it is trivial, misconceived or lacking in substance or there are other good reasons why the dispute should not be referred to arbitration.

The regulator is not to refer a dispute to arbitration if the proponent notifies the regulator that the proponent does not wish to proceed.

*Clause 36: Appointment of arbitrator*
The arbitrator must be properly qualified to deal with the dispute.

The regulator must consult on the suitability of the arbitrator before making the appointment.

*Clause 37: Principles to be taken into account*
This clause sets out principles which an arbitrator must take into account.

*Clause 38: Parties to arbitration*
This clause defines the parties to an arbitration. The parties are the proponent, the operator, other proponents, and any other person the arbitrator considers it appropriate to join.

A party can seek leave of the arbitrator to withdraw if its interests are not materially affected.

*Clause 39: Representation*
A party may be represented by a lawyer or, by leave, another representative.

*Clause 40: Minister's right to participate*
The Minister has the right to call evidence and make representations in arbitration proceedings.

*Clause 41: Arbitrator's duty to act expeditiously*
The arbitrator must proceed with the arbitration as quickly as possible.

*Clause 42: Hearing to be in private*
The proceedings are to be in private unless all parties agree.

The arbitrator may give directions about who may be present.

*Clause 43: Procedure on arbitration*
An arbitrator is not bound by technicalities or rules of evidence.

The arbitrator may inform himself or herself in such manner as he or she thinks fit.

*Clause 44: Procedural powers of arbitrator*
The arbitrator has power to direct procedure including delivery of documents and discovery and inspection of documents.

The arbitrator may obtain a report of an expert on any question.

The arbitrator may proceed in the absence of a party provided that party has been given notice of the proceedings.

The arbitrator may engage a lawyer to provide advice on the conduct of the arbitration and to assist in the drafting of the award.

*Clause 45: Giving of relevant documents to the arbitrator*
A party to an arbitration may give the arbitrator a copy of all documents (including confidential documents) relevant to the dispute.

*Clause 46: Power to obtain information and documents*
The arbitrator may require information and documents to be produced and may require a person to attend to give evidence.

Information need not be given or documents need not be produced where the information or contents are subject to legal professional privilege or tend to incriminate the person concerned of an offence. The person concerned is required to give grounds of objection to providing information or producing documents.

*Clause 47: Confidentiality of information*
The arbitrator is given power to impose conditions limiting access to or disclosure of information or documents.

*Clause 48: Termination of arbitration in cases of triviality etc.*
Where the dispute is trivial, misconceived or lacking in substance, or where the person on whose application the dispute is referred to arbitration has not engaged in negotiations in good faith, the arbitrator may terminate the arbitration.

The arbitrator may also terminate the arbitration by consent of all parties.

*Clause 49: Proponent's right to terminate arbitration*
A proponent has the right to terminate an arbitration on notice to the other parties, the arbitrator and the regulator.

*Clause 50: Awards*
Before an award is made a draft must be circulated to interested parties to enable representations to be made.

An award must be in writing and must set out the reasons for it.

If access is to be granted, the award must set out the conditions.

A copy of the award must be given to the regulator and the parties.

*Clause 51: Restrictions on awards*
An arbitrator cannot make an award that would require the operator to bear the capital cost of increasing the capacity of railway infrastructure unless the operator otherwise agrees.

An arbitrator cannot make an award that would prejudice the rights of an existing industry participant unless the industry participant agrees or unless the industry participant's entitlement to access exceeds the entitlement that the industry participant actually needs and there is no reasonable likelihood that the industry participant will need to use the excess entitlement and the proponent's requirement cannot otherwise be met satisfactorily.

*Clause 52: Consent awards*

An award can be made by consent if the arbitrator is satisfied that the award is appropriate in the circumstances.

*Clause 53: Proponent's option to withdraw from award*

After an award is made, the proponent has 7 days within which to withdraw from it. In that event the award is rescinded and te proponent is precluded from making as access proposal within 12 months unless the regulator agrees. The regulator may impose terms.

*Clause 54: Variation or revocation of award*

The regulator can vary an award if all parties affected by the variation agree.

If the parties to the proposed variation do not agree, the regulator may refer the dispute to arbitration.

The regulator need not refer the dispute to arbitration if there is no sufficient reason for doing so.

The arbitration provisions of the Bill apply to a proposal for a variation referred to arbitration.

*Clause 55: Appeal on question of law*

An appeal to the Supreme Court is allowed only on a question of law. An award or decision of an arbitrator cannot be challenged or called in question except by appeal under this clause.

*Clause 56: Costs*

The costs of the arbitration are the fees, costs and expenses of the arbitrator, including the fees, costs and expenses of any expert or lawyer engaged to assist the arbitrator.

In an arbitration, costs are at the discretion of the arbitrator except where the proponent terminates an arbitration or elects not to be bound. In that case the proponent bears the costs in their entirety.

The regulator may recover the costs of an arbitration as a debt.

*Clause 57: Removal and replacement of arbitrator*

An arbitrator may be removed from office if he or she becomes incapable of performing his or her duties, is convicted of an indictable offence or becomes bankrupt.

If an arbitrator is removed from office, the regulator is empowered to appoint another in his or her place.

*Clause 58: Non-application of Commercial Arbitration Act 1986*

This clause provides that the *Commercial Arbitration Act 1986* does not apply.

PART 7
MONITORING POWERS

*Clause 59: Regulator's power to monitor costs*

This clause allows the regulator to require the provision of information in order to keep costs of railway services under review.

*Clause 60: Copies of access contracts to be supplied to regulator*

This clause requires copies of access contracts to be provided to the regulator on a confidential basis.

*Clause 61: Operator's duty to supply information and documents*

This clause requires the operator to give to the regulator specified information and copies of documents relating to the provision of railway services.

*Clause 62: Confidentiality*

This clause requires the operator to maintain confidential information as confidential.

The regulator may, however, give confidential information to the Minister if in the public interest to do so.

*Clause 63: Duty to report to the Minister*

This clause requires the regulator to report to the Minister at the request of the Minister.

PART 8
ENFORCEMENT OF THIS ACT

*Clause 64: Injunctive remedies*

This clause empowers the Supreme Court to grant injunctive remedies if required to enforce the Act or the terms of an award.

*Clause 65: Compensation*

This clause enables the Supreme Court to order compensation to any person where there has been a breach of the Act or an award made under the Act.

An order may be made against all persons involved in the contravention.

*Clause 66: Enforcement of arbitrator's requirements*

If a person fails to comply with an order or direction of an arbitrator, the failure to comply can be certified to the Supreme Court which can then inquire into the matter and make appropriate orders.

PART 9
REGULATIONS

*Clause 67: Regulations*

This clause empowers the Governor to make regulations for the purposes of the Act.

**The Hon. P. HOLLOWAY** secured the adjournment of the debate.

## APPROPRIATION BILL

Second reading.

**The Hon. K.T. Griffin, for the Hon. R.I. LUCAS (Minister for Education and Children's Services):** I move:

*That this Bill be now read a second time.*

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

On 29 May 1997, the 1997-98 budget papers were tabled in the Council. Those papers detail the essential features of the State's financial position, the status of the State's major financial institutions, the budget context and objectives, revenue measures and major items of expenditure included under the Appropriation Bill. I refer all members to those documents, including the budget speech 1997-98, for a detailed explanation of the Bill.

Clause 1 is formal.

Clause 2 provides for the Bill to operate retrospectively to 1 July 1997. Until the Bill is passed, expenditure is financed from appropriation authority provided by Supply Acts.

Clause 3 provides relevant definitions.

Clause 4 provides for the issue and application of the sums shown in the schedule to the Bill.

Sub-section (2) makes it clear that appropriation authority provided by the Supply Act is superseded by this Bill.

Clause 5 is designed to ensure that where Parliament has appropriated funds to an agency to enable it to carry out particular functions or duties and those functions or duties become the responsibility of another agency, the funds may be used by the responsible agency in accordance with Parliament's original intentions without further appropriation.

Clause 6 provides authority for the Treasurer to issue and apply money from the Hospitals Fund for the provision of facilities in public hospitals.

Clause 7 makes it clear that appropriation authority provided by this Bill is additional to authority provided in other Acts of Parliament, except, of course, in Supply Acts.

Clause 8 sets a limit of $50 million on the amount which the Government may borrow by way of overdraft in 1997-98.

**The Hon. R.R. ROBERTS** secured the adjournment of the debate.

## RETAIL SHOP LEASES AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November. Page 613.)

**The Hon. K.T. GRIFFIN:** Mr Acting President, I draw your attention to the state of the Council.

*A quorum having been formed:*

**The Hon. R.D. LAWSON:** I support the second reading of this Bill. The reform of the law relating to retail shop leases is a most important issue. The whole of the law of landlord and tenant has been traditionally one where there has been an inequality of bargaining power, especially in shopping centres in recent years, but from time to time over the years the legislature has had to intervene to redress imbalances which have developed in the bargaining power

of tenants on the one hand, and landlords. The pendulum swings in this area. Presently it favours landlords, especially in relation to renewals. We should not however think that the pendulum is always in the same place. Landlords, too, can suffer economic hardship when the wheel turns. There have been cases where landlords have exploited tenants and it is appropriate that there be some reform.

The renewal of leases is one area in which landlords have the whip hand at the moment. It is interesting going back over some of the recent history of the law in relation to this matter. For example, in 1981 a report of the South Australian working party on shopping centre leases was delivered to the then Minister for Consumer Affairs (Hon. John Burdett). At page 25 of that report the question of renewal of leases was noted and the authors of the report said:

> The right to renew a lease is of critical importance to the minor tenant.

I interpose that the expression 'minor tenant' was used in relation to small tenants. The report continues:

> The lease represents a valuable asset since it is the only security which the tenant has for the time and money which he has invested in the business.
>
> The current trend towards shorter term leases, combined with the failure of many leases to include a provision giving the tenant the right to renew, means that the landlord is readily able to use the right to decline to renew the lease as a lever to persuade the tenant to agree to relocate, pay increased rental, refit his shop, etc. Failure to agree to such conditions can result in the tenant having to vacate the premises without any compensation for goodwill.
>
> In one tenant submission, from a group of tenants in a centre, it was stated that 'the constant hint or direct threat that lease renewal is in jeopardy is present in virtually all negotiations. Total authority of management in granting or refusing the lease renewal, without any course of appeal by the tenant, is one of the most abused conditions.' Several other tenant submissions also included complaints concerning the lack of a right of renewal.

The report concluded:

> The general opinion of landlords appears to be that the granting of a right of renewal gives tenants the ability to plan ahead without giving a reciprocal ability to the landlord, and thus it is not usually granted. The working party considers that it would be totally inappropriate to impose guaranteed tenure constraints on leases for premises in shopping centres. The provision of a right of renewal is something that a prospective tenant must negotiate when a lease is first being contemplated.

That was written in 1980, and the problems alluded to by the authors of the report at that time have persisted to this date. In many respects, those problems have been exacerbated because of the number of shopping centres—and major shopping centres—that have been established since 1980 in the State of South Australia. Of course, there is far more recent literature on the subject than that report. There was the report of the Joint Committee on Retail Shop Tenancies, delivered in July of 1996, a comprehensive report that set out a number of recommendations that have been mentioned in second reading contributions, on which I think it unnecessary for me to enlarge.

I should express one concern that I have about this measure and measures like it, that is, the degree of consultation that goes into these measures. There has been a great deal of interest by industry associations in this legislation and a great deal of interest by a number of tenants who are active in these matters. The Attorney has reported that the Retail Shop Leases Advisory Committee was established in November 1996, and he reported progress on that point in a ministerial statement on 3 December. At that time the development of a mandatory code of practice was under consideration, and the ministerial statement alluded to the difficulties of formulating such a code of practice that would be acceptable to all stakeholders.

As I noted, a number of the stakeholders were represented in consultations: the Retail Traders Association of South Australia Inc.; the Small Retailers Association of South Australia Inc.; Westfield Shoppingtown Shopping Centre Management Co.(SA) Pty Limited, which is of course a major owner of shopping centres in Adelaide; the Property Council of Australia; the hairdressers' association; the Meat and Allied Trades Federation; furniture retailers; the South Australian Employers Chamber of Commerce and Industry; the Hardware Association of South Australia; the Pharmacy Guild of Australia; the Motor Trade Association; and the Newsagents Association of SA Ltd.

So, there has been much input into the measure presently before Parliament and the Attorney is to be congratulated for the degree of consultation undertaken. However, we are dealing here with shopping centres in particular, that is, centres in which there are five or more shops together. That covers a substantial part of the market.

**The Hon. M.J. Elliott:** With one owner.

**The Hon. R.D. LAWSON:** Yes, five shops with one owner, but there are many more small shops than that and many small retailers who in the nature of things are not great participants in industry or trade associations. One might deprecate their lack of good business citizenship in that regard, but the fact is that there are many small operators who simply do not have time to involve themselves in industry associations. I think it is incumbent on the Parliament to ensure that it is not only the prominent stakeholders whose interests are covered, not only the major landlords and the major tenants, many of which are national chains, but also those small landlords who may own one or two shops, and of course small businesses, as I mentioned. We must ensure that this legislation satisfactorily addresses their interests as well, because it is very easy in this area as in any other for a deal to be cut between the major stakeholders without too much regard for the interests or particular problems of those who are outside that description.

The measures included in the proposed amendments are, by and large, satisfactory. I may have some comments to make in Committee on individual provisions, but I do understand the nature of the problem here, namely, that this legislation represents a compromise, and one cannot make too much alterations, nor should one seek to make too many alterations, if indeed any at all, unless it can be demonstrated that there is a particular interest that is affected adversely by the measures. Having said that, I will confine any additional comments I have to drafting matters in Committee. I support the second reading.

**The Hon. K.T. GRIFFIN (Attorney-General):** I thank members who, over a long period of time, have made contributions to the second reading debate on this Bill. I appreciate very much the patience of members in the way in which they have allowed this matter to be handled. As I indicated last year, a number of vexed questions arose in relation to shopping centres, in particular shopping centres where there appeared to be more difficulties as between managers/owners on the one hand and tenants on the other at the expiration of the term of a lease, and the focus of discussions from that point until now has been very much on what happens at the end of the lease in a retail shopping centre.

I confess that when I started out on the exercise of consultation and negotiation I was not unduly optimistic that we would be able to reach a satisfactory conclusion. However, we have, and full credit should be given to those who participated in the Retail Shop Leases Advisory Committee, and particularly the four members of the small working group who worked with me and my officers to negotiate a satisfactory outcome to the problems that confront retail shop tenants as well as landlords. Those involved were Mr Max Baldock and Mr John Brownsea of the Small Retailers Association, Ms Elizabeth Connolly of the Australian Small Business Association, Miss Kate Knight and Mr Stephen Lendrum of the Property Council of Australia, Mr Steve McCarthy of Westfield Shopping Centre Management, Mr Bryan Moulds of the Property Council of South Australia, Mr Christopher Rankin of the Newsagents Association of South Australia, and Mr David Shetliffe of the Retail Traders Association.

The four persons who comprised the small working group who worked with me and my officers comprised Mr Max Baldock and Mr David Shetliffe representing the two principal retailer associations, Mr Stephen Lendrum of the Property Council of Australia and Mr Steve McCarthy of Westfield Shopping Centre. Those people were assisted in the earlier periods by two officers of the Crown Solicitor's office who undertook research work. It was pretty obvious earlier this year, after several months of work, that we needed to have the broader ranging resources and contacts of the Attorney-General's Department and, in particular, the Crown Solicitor's office in gaining access to information from around the world about the way in which other countries and other jurisdictions in Australia dealt with the vexed question of what happens at the end of a lease.

The research which was undertaken was quite extensive in the sense that it sought access to information from other Governments and academic institutions as well as associations of both retailers and property owners. It was surprising that very little was available from any of those sources on the law relating to the rights of tenants and landlords at the end of a lease, other than the normal landlord and tenant arrangements which had been developed over many years and which were part of either common law or statute law.

*The Hon. Anne Levy interjecting:*

**The Hon. K.T. GRIFFIN:** I was going to talk about the UK. The United Kingdom and, I think, Ireland were the two countries that had an established regime for dealing with retail tenancies. In both jurisdictions the established regimes were very much long-term leasing entitlements vested in the retail tenants. In the context of the development of retail tenancies in Australia, all parties agreed that they were not really appropriate models to follow. Having involved the officers of the Crown Solicitor's office for some period of time to undertake that research work, Ms Margaret Cross, who is presently the Deputy Commissioner for Consumer Affairs and substantively a senior legal officer in the Policy and Research Division of the Attorney-General's office, became involved and a lot of the subsequent development work, in conjunction with Parliamentary Counsel, is very much the result of the diligent work of Ms Margaret Cross.

I participated in all the meetings of the working group, as well as the working Retail Shop Leases Advisory Committee, because I felt a personal responsibility to endeavour to reach some conclusions and, if necessary, exert some pressure to achieve some compromises if that was found to be necessary. The members of the working group also worked amongst themselves and, over a period of time, they demonstrated goodwill in the way in which they dealt with this problem. Quite obviously each group did not get all that he or she wanted. The Property Council of Australia and Westfield gave considerable ground on the previous position, which was that the property owner should, in essence, be able to manage his or her property as he or she believes fit, and that the term of a lease which might be for a fixed term with no rights of renewal ought to be dealt with according to the tenor of such documentation and according to the law. On the other hand, the aspirations of representatives of tenants were in excess of what has subsequently been achieved—so there has been a compromise from both perspectives.

The agreement that has been reached has in fact been signed off and, for the record, I should table the documentation, which is really a series of faxes back to me in support of a letter and amendments which have been identified. The document is dated 24 June; it is a letter from me to all members of the Retail Shop Leases Advisory Committee and states:

> I refer to our meeting held on 19 June 1997 and my letter dated 20 June 1997—

which forwarded an earlier draft of amendments but which amendments required some further drafting attention—

> I attach the latest (and final version) of the amendments to the Retail Shop Leases Amendment Bill—

and I then refer specifically to the amendments for the purposes of identification—

> This latest version includes the amendments to clause 13 dealing with capital obligations. Clause 20D(3)(d) has also been amended to reflect comments made by committee members.
>
> In accordance with the discussion at our meeting, I would ask you to indicate your support for the amendments of the Bill by signing, where indicated, at the foot of a copy of this letter and returning it to my office by 9 a.m. Wednesday, 25 June 1997.

*The Hon. M.J. Elliott interjecting:*

**The Hon. K.T. GRIFFIN:** The honourable member must remember that this was in the context of a whole series of regular meetings and communications where this was ultimately the final draft that had been signed off. I continued:

> I confirm that once all members of the committee have signed off on all the amendments, I will make them available to the Opposition and the Democrats with a view to securing the passage of the amendments and the amended Bill in the current session of Parliament.

Further referring to the interjection by the Hon. Mr Elliott, the object of getting them back on 25 June was to ensure that I got them out to both the Opposition and to the Australian Democrats so that there would be a reasonable opportunity to consider them before we launched into the Committee consideration this week. The final paragraph of the letter to the members of the full committee is as follows:

> In accordance with the consensus of the 19 June 1997 meeting, I confirm all members agree with these amendments in total and will not be seeking other amendments to these provisions and the remainder of the Bill as they pass through the Parliament.
>
> Yours sincerely,
>
> Trevor Griffin, Attorney-General.

There is a series of these, all of which have been signed by the various representatives. In relation to the Small Retailers Association, I propose to table a message from Mr John Brownsea which indicates as follows:

> We have resolved our concerns regarding matters raised today. Max Baldock and I have been delayed in discussions (he is in Canberra), which is unfortunate, as we have delayed everyone. I have 'signed off' for Max as he cannot access a fax at this point in

time—but he will provide his formal agreement in due course. Regards,

John Brownsea.

That has been signed by all the representatives of all the bodies to whom I have already referred. I seek leave to table that package of documents.

Leave granted.

**The Hon. K.T. GRIFFIN:** The essence of the package of amendments which have been agreed (and we will have an opportunity to deal with them in more detail in Committee) is as follows. I have already provided to the Hon. Anne Levy, Mr Michael Atkinson and the Hon. Michael Elliott a brief outline of the amendments and their objectives. A new subclause (7) deals with the issue of capital obligations and clearly sets out what a lessee can be required to make or reimburse by way of capital expenditure. New subsection 13(1)(b) is of particular importance as it will require a lessor to disclose not only the nature of a proposed refit but also sufficient detail of what will be required to permit the lessee to assess the likely costs of complying with the refit obligations. This will enable a prospective lessee to take their own advice as to what a refit will cost.

I then deal with the insertion of Part 4A, which is the most significant of the amendments which are proposed by the Government and which reflect the agreement between the parties. I should say that this agreement is far in advance of anything else which has been either agreed or enacted in any other jurisdiction in Australia.

Section 20A sets out some objects, which express the reality of the situation that the Parliament recognises that conflicts sometimes arise between a lessor's expectation to be able to deal with leased premises subject only to the terms of the lease, and a lessee's expectation of reasonable security of tenure. The objects of this part are to achieve an appropriate balance between reasonable but conflicting expectations and to ensure as far as practicable fair dealing between lessor and lessee in relation to the renewal or extension of a retail shop lease.

The reason for including objects is to endeavour to set the tone of the part as an aid to interpretation if there is any disagreement as to the construction of the part and, if litigation is ever required, for the court to take into account the objects which the Parliament was seeking to achieve in enacting this Part 4A.

Section 20B is the existing section 17, which deals with the term of a lease relocated into this part. Section 20C deals with the application of the part. Section 20D establishes a right in the existing lessee of premises to be accorded a right of preference over other possible lessees of the premises. The section also recognises a range of legitimate reasons for the lessor not to prefer the existing lessee.

Section 20E provides that between six and 12 months before the end of the lease the lessor must begin negotiations with the lessee to renew or extend the lease and must, before entering into a lease with another person, make a written offer to renew or extend the existing lease on terms and conditions no less favourable to the existing lessee than the terms and conditions of the proposed new lease. A copy of the proposed lease and the disclosure statement relating to it must be provided. It is important to note that provision is expressly made that the negotiations are to be conducted in good faith. That provision was inserted to endeavour to set a criterion by which the behaviour of both lessors and lessees might be judged, again in the event of a dispute.

Section 20F deals with the situation where the lessee does not have a right of preference and provides that the lessee must be advised in writing of why there is no right of preference. Section 20G deals with the situation of a lessor failing to begin negotiations or to give notice of the absence of a right of preference, and the effect of the section is to extend the lease until six months after the required notice is given or the negotiations begin.

Under section 20H if the lessor fails to comply with the rules of conduct at the end of the term and the lessee has been prejudiced the dispute may be mediated or the Magistrates Court may make orders in relation to the matter. The court's powers are broad and may extend to ordering the renewal or extension of the lease or ordering payment of compensation not exceeding six months rent.

Then there are other provisions, among them a provision in section 20K to strengthen the lawyers' certificate which is found in the current Act and then to deal with other matters of relevance to the agreement which has been reached.

It must be made clear that no party is prevented from lobbying for other amendments to the law related to retail shop leases at some time in the future, but all parties recognised that if we were to get something which is workable and achievable and which addressed some of the core issues of major concern there would have to be some compromises to enable amendments such as those now before us to pass through the Parliament. In the course of the past seven months, at least between those peak groups that have participated in these discussions, there has been a modification of views about their relationships and, at least among the Retail Shop Leases Advisory Committee, a discernible willingness to work together to try to make the industry work. It may be too much to expect that this will resolve all difficulties, but I think it is a good start—a very significant start—and I place on record my very sincere and strong appreciation for the way in which all the participants have worked together to reach what I would regard as a satisfactory outcome.

Bill read a second time.

In Committee.

Clause 1.

**The Hon. M.J. ELLIOTT:** I want to take this opportunity to put a few questions to the Attorney-General and also to make a few observations. I will not ask the Attorney to answer these questions on the spot, but it might facilitate things if he wants to debate it late tomorrow that I get some answers before Parliament resumes.

My first comment is that I could not have supported the second reading of the Bill as it was because, as I saw it, the most important issue contained within it and the most important issue pursued by retailers for quite some time had been that surrounding lease renewal. Frankly, as the Bill previously stood, it had so many outs that it would offer no protection to small retailers. That is my judgment. In fact, I met with a large number of retail organisation representatives after the Bill had come into the Parliament, and they all unanimously had that same view.

The amendments that have now been tabled in this place are a vast improvement on what we had before, and it offers real hope that for the first time in South Australia, at least in modern times, lease renewal might just turn out to be a more balanced affair than it has been. I see that during his second reading contribution the Hon. Robert Lawson noted that it is really not a new problem and that a report under then Minister Burdett noted that lease renewal was a major

problem. All the evidence I have received is that this problem has got worse and worse. But that is a subject which I have discussed now on many occasions in this place.

It has been my very strong view that, if you do not have some sort of security at lease renewal, all the other rights that we have tried to put into retail tenancies legislation count for almost nothing, because the very threat of not having your lease renewed would be sufficient to encourage you not to pursue your other rights. You really could not afford to antagonise the landlord, even if the landlord had clearly breached the Act in other ways. I would not recommend antagonising a landlord on any occasion, but the enforcement of those other rights was not going to happen because the very threat of non-renewal of lease was enough to make people back off. Now it does appear that we might be at the point where it could work.

My first question to the Attorney is in relation to whom this applies. I want to clarify whether or not these clauses will have retrospective action as well; in other words, will people already in leases be protected, or does this right of renewal apply only to people who enter new leases after the passage of this legislation? If it applies only to new people it will take a decade before it applies to more than 10 to 15 per cent of tenants, and it will be too late for many people. I would hope and expect that it does apply to existing leases, but I have not been able to discern that perhaps because I have not gone through it sufficiently thoroughly.

In terms of potential loopholes, I am sure that the exclusionary clause has been put there for the best of reasons, recognising that there may be times when both the landlord and the tenant see it in their mutual interest to have an exclusionary clause. But I would expect that this would be a very small minority of leases. I am a little concerned about how easily the exclusionary clause might be used, particularly by some bigger companies which will make sure they have their best lawyers on the job. The most dangerous part might rely upon the interpretation of 'was not acting under coercion or undue influence'. How does one handle a situation of, 'Well, if you want this lease I want an exclusionary clause; no exclusionary clause, no lease'? Is that coercive or undue influence to start off with and, secondly, how on earth do you prove that they actually said that to start off? What happens if you go to the landlord and they say, 'Yes, you can come in but I want an exclusionary clause'? If that becomes a pattern, this whole series of amendments has been largely undermined.

First, I want some interpretation from the Attorney-General as to not only how he intends it to operate but also as to how tight he thinks it is and how much protection it offers. Finally, what commitment will the Government make to monitor the use of these exclusionary clauses and, if they do turn up in all but a small minority of cases, is the Government prepared to act further? It appears to me that if they do become a common occurrence within leases—particularly if they are used by larger companies which, I suspect, will be the ones that use them—the very clear intention of the legislation is being undermined. I would hope and expect that the Attorney-General is committed to the intent of the legislation.

If it does appear later on that not just in relation to that area but elsewhere under this legislation a loophole has been developed, will the Government try to do some sort of monitoring in order to ensure that those loopholes are quickly covered? Perhaps the Attorney-General might consider, if he is prepared to do some monitoring, how that might be done. I suppose it could happen through the advisory committee—if he intends to maintain that. I hope that, as all parties agree to this legislation, they all are committed to the spirit of the legislation and as such would agree to the closing of loopholes.

I note that the vast bulk of abuses that appear to have occurred in relation to renewals have happened in shopping centres, but not exclusively. One example of an abuse that I came across was a woman who had leased the shop out, terminated the lease, took over the shop, ran it herself, sold the business and then at the end of the lease took it over herself for a while and sold it again. What she was doing was constantly grabbing the goodwill that had been developed by the previous business, not extending their lease, taking the business, running it for a short while and then selling it again. She had done it on at least three occasions. That might not quite tie into this, but I am showing how even in an individual shop a landlord can play some quite nasty games in terms of lease renewal. In fact, on several grounds—not just the fact that she was not in a shopping centre—the landlord might have got away with that practice.

I note that the Attorney-General said that there may be a need for a further tidy up later on. I do not have any amendments in mind at this stage, although I will await the responses to the questions. I do not intend at this stage to move amendments which would in any substantial way change the spirit of what is here, because I think substantial progress has been made. Subject to satisfactory assurances on the questions that I have asked, I will support the speedy passage of the Bill but note that there are some issues which still have not been addressed satisfactorily but on which we will get another chance later on. The biggest single issue in relation to renewal is now, it appears, being addressed fairly well, provided that the exclusionary clause is not abused.

Having indicated that I was tempted to oppose the second reading, I do not oppose it now because these amendments are a vast improvement to the Bill. I know that there was a time when the Attorney-General had some grave doubts about some of what is now before us, and I congratulate him on what he has done. It looks as though we will be leading Australia, so he will be seen as a reforming Attorney-General and will be looked upon in awe in other States.

**The Hon. ANNE LEVY:** I, too, should like to make a few comments in relation to clause 1 because of the new amendments which have now been placed before us. I congratulate the Attorney on the compromise which has been achieved by the advisory committee, particularly the working party as a subgroup of it. The Attorney admitted that he was not optimistic when the negotiations were set up, and I am happy to admit that I was not very optimistic, either. The fact that compromises have been reached and all parties have signed off on it is certainly a matter for congratulation. I will not be looking to change the essence of the agreement which has been reached if the various parties feel that they can live with it, at least for a while, so I am happy to facilitate its passage through Parliament.

I share some of the concerns that have been expressed by the Hon. Mike Elliott, and I will await with interest the responses to some of his queries. I, too, have a query, and it relates to how many retail leases fall into the different categories which are dealt with in the amendments. Proposed division 3 refers to renewal of shopping centre leases. I presume that applies to all retail shop leases in shopping centres, whether or not they have an option to renew in their current or future lease.

**The Hon. K.T. Griffin:** That is correct.

**The Hon. ANNE LEVY:** One of the responses to the Hon. Mike Elliott is that division 3 will apply only to retail shop leases in a retail shopping centre entered into after the commencement of this division. So, it will not apply to any current leases, only to future ones. I am interested to know roughly how many retail shop leases there are in retail shopping centres. Obviously the number to which it will apply will be very small to begin with but will gradually rise over a decade.

I am somewhat confused about division 4, which deals with other cases. It provides that this applies to retail shop leases other than one to which division 3 applies, so one presumes that means that it applies to all retail shop leases outside shopping centres. It also says that it applies to all retail shop leases other than one in relation to which a right or option to renew or extend the lease exists. I find this rather hard to understand in terms of the retail shop leases to which it will apply.

Division 3 applies to all leases within shopping centres and division 4 applies to those which are not in retail shopping centres or to those which do not have a right or an option to renew or extend. Does this mean that those in shopping centres which do not have rights of renewal come under division 4? Why is it necessary to have part B if division 4 applies to all shopping leases which are not covered by division 3?

*The Hon. K.T. Griffin interjecting:*

**The Hon. ANNE LEVY:** I am quite happy to admit that the fault may lie with me, but I am unclear as to what type of retail shop lease that second category in division 4 applies, because I should have thought that those in division 3 and those which are not in division 3 would cover the lot. I fail to see why there is a third category. I am also interested to know how many retail shop leases are not held in shopping centres.

**The Hon. K.T. Griffin:** I do not think that we have any figures available on that. Many of them are not registered. There is no central register so we would have no way of assessing it. Even in shopping centres, the leases are frequently not registered, so we have no way of assessing it.

**The Hon. ANNE LEVY:** I presume that members of the working party had some notion of how many people they were negotiating for. I am interested to know whether it is 50 per cent in shopping centres and 50 per cent outside or whether it is 85 per cent in shopping centres and only 15 per cent outside. In other words, will division 3 apply to the majority or only a small proportion, and likewise for division 4?

It seems to me that the provisions regarding renewal which have been set out here are designed to remedy some of the concerns which have occurred for lessees within shopping centres, but they will not apply to those not in shopping centres. Lessees within a shopping centre will have a first right of refusal, except in certain cases, and I do not argue that it is not reasonable to have exceptions. Other than the categories which are exceptions, lessees in the retail shopping centres will have the first right of refusal. Furthermore, if they are not to be offered a renewal, they must receive notice in writing as to why it has not been offered it, and they have the ability to go to a court or seek mediation if there is a dispute.

For the retail shop leases in division 4, while they will be told that they have an option of a renewal or told that they are not being offered a renewal, they have no right to ask for reasons and there is no mediation or court proceedings possible for them. Why does this difference exist in the rights of tenants between those who are in retail shopping centres and those who are not? I accept that this has been negotiated but I would be interested whether the Attorney can give some indication why those within shopping centres have the right to seek mediation, court rulings and reasons why their renewal is not being offered but those who are not in shopping centres will lack these rights. Why the difference in rights between those in division 3 and those in division 4? It seems to me to be an anomaly in the amendments which have been placed before us.

As I said earlier, I certainly do not want to hold up the passage of this Bill, nor do I in any way want to change the substance of what has been agreed by the working party since it represented all the major stakeholders, but I would be interested certainly to know why there is this discrimination with fewer rights for the shop leases covered by division 4 than for those covered by division 3.

**The Hon. R.D. LAWSON:** My question about the Attorney's amendments arises in relation to the proposed implementation of the preferential right. The proposed clause 20E will require the lessor in certain circumstances to begin negotiations with the existing lessee at least six months before the end of the term, and a particular lessee is required to make an offer to the existing lessee on conditions no less favourable to the lessee than those in the proposed new lease. Let us assume that the lessor does make that offer. He says, 'I offer you a lease on these terms.' That offer has to remain open for at least 10 days, being the minimum reasonable period. Let us say the landlord desires to increase the rent over what is being presently charged and have some other terms. Let us say it is even a substantial increase.

*The Hon. Anne Levy interjecting:*

**The Hon. R.D. LAWSON:** Let us say 50 per cent or any per cent—and this is six months before the expiration of the term. The tenant says, 'No, I really cannot accept that. I am not in a position to sign off now.' The 10 days has expired and the offer then lapses. Subclause (4) provides that the negotiations are to continue until the offer lapses. The obligation to negotiate has ceased. Let us assume that the landlord then advertises the same terms and he does not get an acceptance of those very same terms but the person to whom he makes the offer negotiates a different size sign, different car parking arrangement or some other arrangement. Is it intended that this clause will require the landlord, the negotiations having concluded under the previous offer, to have to then go back to the tenant and offer him what the other prospective tenant is offering, notwithstanding that an offer to the same effect, or even to a higher or lower level, has been previously rejected by the tenant? It seems to me that that might be productive of some difficulties.

Another example is that the offer is made to the lessee who does not accept within the 10 days and the landlord then goes out in the market, retains his agent, conducts negotiations with a number of people over a length of time and he gets three offers from various parties for various different permutations and computations. He has them on the desk and he is considering whether these three live negotiations are being conducted with other parties and he finally selects one. Is he bound then to go back to the tenant—and let us assume this offer is higher than the one the tenant has previously rejected—and say, 'We give you another opportunity at a higher offer than the one you previously rejected on the basis

that it was too expensive. We have to go back to you now and offer you those terms.'

It seems to me that that could be productive of disadvantage to a landlord because it can turn the whole process into a Dutch auction. I had originally thought that once the negotiations had been conducted with the initial tenant, that really he had his chance and the negotiations are thereupon ceased and the landlord was free to negotiate at higher level or, perhaps even months later, a lower level with someone else. I would appreciate the Attorney's comments on that.

**The Hon. K.T. GRIFFIN:** I will endeavour to deal with all the questions, but I could leave it on the basis that I will put what I can on the record now, I will have the answers checked and what I cannot answer I will endeavour to have available to members tomorrow morning so that there is an opportunity for them to consider those before we deal with the Bill hopefully tomorrow afternoon. I appreciate the observations which members have made and the way in which they are approaching the consideration of these amendments. I will deal first of all with the Hon. Mr Lawson's point. We had at the working group the biggest manager of retail shopping centres, Westfield, as well as Stephen Lendrum, a lawyer representing the property council. We also had representatives of retailers, small, not so small. We worked through how this was going to operate.

The view was that the first right of refusal, which is in the Bill, was just impractical and unworkable. We were all conscious of the potential for rigging the alternative offers against which the existing tenant should be measured. That was the reason why we inserted the provision that the negotiations are to be conducted in good faith. If the tenant is made an offer and rejects that offer and either there is no other offer on the table so far as the landlord is concerned from another prospective lessee, or, if there is, and it is higher in terms of rent but for some reason the existing tenant is unable to match what is put to the existing tenant as an offer which has been made by another prospective lessee but the other offer falls through, then it is my view that the existing tenant gets a second bite of the cherry.

If there is an offer made to an existing tenant but no prospective lessee in the wings and the offer put to the tenant is rejected by the tenant, and subsequently the landlord is able to get another prospective tenant signed up at a higher rate, then the landlord will not have to go back to the existing lessee. It is all a matter of endeavouring to ensure that there is no sham situation put to the existing tenant.

**The Hon. M.J. Elliott:** If there is a higher offer, surely the existing lessee can match that offer.

**The Hon. K.T. GRIFFIN:** That is right. What I was putting was that if the existing tenant rejects an offer and subsequently there is a higher offer made by another prospective tenant then, because it is higher than an offer that has been rejected by the existing tenant, the existing tenant will not have a second opportunity. But if the existing tenant is made an offer and rejects it but subsequently there is an offer from a prospective lessee that is lower than that which has been rejected, then the existing lessee has another right to match it.

*The Hon. Anne Levy interjecting:*

**The Hon. K.T. GRIFFIN:** That is right.

**The Hon. M.J. ELLIOTT:** What I was pursuing, and what my reading of 2A still seems to make possible, was that a tenant should be able to match any other offer. I thought that 2A did that in saying that they can make a written offer to renew or extend the existing lease on terms and conditions no less favourable to the lessee than those of the proposed new lease. The proposed new lease is to a second proposed lessee, and I thought that, whether it was higher or lower than the first offer that was rejected, they had the opportunity at least to match it. I think this measure actually allows that, as it stands. That is what I expected and that is the way it reads to me.

**The Hon. K.T. GRIFFIN:** At this hour of the night I will take it on notice: I will need to have a good think about it. I will just make a couple of other observations, then I will have all the detail checked and come back with something more specific. The Hon. Anne Levy raised the question of why there is the distinction between retail shopping centre tenants on the one hand and retail shop lessees who were not in a retail shopping centre on the other. What I said at the commencement of my second reading reply was that the focus was upon the retail shopping centre because the retail shopping centres seem to have attracted the bulk of the criticism, where you have captive tenants in a confined location with very little opportunity to bargain. There may be difficulties with other retail tenants not in a retail shopping centre but it was not felt by the Retail Shop Leases Advisory Committee that this area ought to be the subject of attention because it was not the primary area of complaint.

**The Hon. Anne Levy:** Why not give them the same rights, even if there are no problems?

**The Hon. K.T. GRIFFIN:** We have focused on retail shopping centres and that is what the arrangement ended up being. I suspect that there are many more retail tenants outside retail shopping centres than there are in retail shopping centres. I do not have the numbers: the question has been asked and I will see whether we can obtain some information. Certainly, the Retail Shop Leases Advisory Committee did not have figures before it. It was operating on the basis of what it believed to be the primary areas of concern. So, we have division 3 dealing with shopping centre leases; we have division 4 dealing with other leases.

**The Hon. Anne Levy:** Plus another category.

**The Hon. K.T. GRIFFIN:** No, you really have two. In division 4, with other cases, you have some leases that will not already have rights to renew. Some leases do have rights of renewal in them, so there is no reason to apply division 4 to those leases where there is already a right of renewal.

**The Hon. Anne Levy:** Whether they are in a shopping centre or outside?

**The Hon. K.T. GRIFFIN:** No, that applies to other cases outside retail shopping centres.

**The Hon. Anne Levy:** Division 3 is those in retail shopping centres; division 4 is those not in retail shopping centres, so I do not know what the second category in division 4 is. I would have thought that those within and those without comprised the total.

**The Hon. K.T. GRIFFIN:** I will check that out; I will take that on notice too. The Hon. Mike Elliott asks what commitment the Government will give to monitor exclusionary clauses. The Retail Shop Leases Advisory Committee is intended to continue. We have had a number of discussions about how we will go about keeping the group going, and it is intended that we will probably meet about three times a year, more often if necessary, as we do in relation to a real estate industry forum that I run. We meet three times a year, bringing all those in the real estate industry together to deal with any problems that might arise, and the same will apply in relation to the Retail Shop Leases Advisory Committee.

If it appears that there are those seeking to manipulate the intention of the legislation, I am sure that that will be very quickly drawn to my attention but equally quickly drawn to the attention of the Opposition and the Australian Democrats. So there is a sense of public accountability and, if there is a problem, I will certainly want to address it. How it will be addressed, I cannot say, because I suppose that is speculative at the moment, but I would want to be able to deal with it effectively.

In terms of the application of the preference for renewal, new section 20C applies to Division 3 in relation to a retail shop lease of premises in a retail shopping centre entered into after the commencement of this division. So it does not apply to existing leases: it will apply to those entered into after this comes into operation. The honourable member has raised a number of questions; I cannot answer some on the run. I will get some answers and make sure they are back later today.

Progress reported; Committee to sit again.

## RACING (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

**The Hon. R.I. LUCAS (Minister for Education and Children's Services):** I move:

*That this Bill be now read a second time*.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill proposes amendments to the *Racing Act 1976* relating to a number of disparate matters.

The Bill proposes:

- to permit a non-registered racing club, with the approval of RIDA, to have totalizator and bookmaker betting at their meetings;
- to permit TAB to accept bets in the form of a cash voucher that has been issued by the TAB;
- to permit TAB to accept bets in the form of a smart card that has been issued by the TAB;
- to permit TAB to remit one payment to RIDA, who in turn will deposit that money into the SATRA, SAHRA, and SAGRA Funds established under Section 23 of the Racing Act;
- to permit TAB to make profit distributions on a quarterly basis, based on 12 accounting periods per financial year;
- to permit both the TAB and bookmakers to bet on events, as approved by the Minister, without the necessity to prescribe those events by regulation;
- the profit from fixed odds betting with the TAB and an amount of 1.75 per cent from bets with licensed bookmakers, on events other than racing be paid to the Recreation and Sport Fund;
- to permit TAB to enter into an agreement, with an interstate or international authority, to provide a fixed odds or pari-mutuel betting system on sporting events including football matches but not including racing events;
- to permit RIDA to authorise a licensed bookmaker to field at any place without the necessity to prescribe that place by regulation;
- to permit a licensed bookmaker to field at any place without the requirement that an event must be in progress.

The amendments are now discussed in more detail.

The Racing Act permits only registered racing clubs to conduct on-course totalizator betting which in turn allows the Racing Industry Development Authority to grant a permit to a bookmaker to accept bets at the approved meeting. It is a function of the three controlling authorities to register racing clubs.

The South Australian Thoroughbred Racing Authority, prior to 1996, pursuant to the local rules of racing exempted a number of racing clubs from compliance with the Australian Rules of racing. These clubs, commonly known as picnic clubs, are all in the far north of the State and conduct no more than 10 meetings per year at which betting was permitted to be conducted. The local rule allowed SATRA to register these clubs and thus comply with the requirements of the Racing Act for the purpose of betting at these meetings.

In 1996 SATRA rescinded the local rule of racing, which enabled the Authority to exempt clubs from compliance with the Australian Rules of Racing. This meant that SATRA would only register those clubs that complied with the Australian Rules of Racing. The major difficulty with registration is the expense of providing reasonable and acceptable facilities, such as veterinary stalls, photo finish equipment, proper running rails, etc. The picnic clubs are not able to afford these costs.

The Government has had numerous complaints from persons associated with picnic clubs at Oodnadatta, Marree, Coober Pedy and Innamincka. Those complaints revolve around the fact that they are no longer permitted to provide betting facilities at their meetings because they are unregistered.

The Government strongly supports the provision of betting facilities at these meetings in remote areas of the State as they are essentially for community fund raising. Being able to bet at these meetings is an attraction for people in remote areas of the State who attend these events. In such circumstances, the Racing Industry Development Authority would permit betting on horses, other than registered horses, as well as betting on corresponding metropolitan and interstate race meetings.

At present the TAB must not accept totalizator bets unless those bets are paid for by cash or against an established account that is sufficiently in credit to meet the amount of the bet.

This restriction does not allow TAB to take advantage of promotional activities such as accepting cash vouchers, issued by the TAB, for bets placed with them.

Cash betting vouchers have been an acceptable form of betting with licensed bookmakers in this State over an extended period and have enhanced the use of services for customers.

The Government is of the view this facility should be extended to the TAB.

It is proposed that the TAB will be able to accept bets by deducting money from a smart card which has been previously acquired by the customer.

Smart cards can be produced in a number of forms however the type of card facility that would be utilised by TAB customers would be either a stored value card or a reloadable card.

In relation to the stored value card, this particular card would have been acquired by the customer for a pre-determined dollar amount. Once the card reaches a zero balance, the customer would be required to purchase a new card.

In relation to the reloadable card, the customer will have the option of adding additional funds onto the card. These additional funds would only be added from the customer's existing debit type accounts or cash. The customer would not have the ability to add funds to the card through any form of credit facility.

The current legislation requires the TAB to remit three separate payments each quarter to RIDA to be deposited in the SATRA, SAHRA, and SAGRA Funds established under the Racing Act. It is proposed that by allowing TAB to remit a single payment to RIDA it would increase efficiency and reinforce the pivotal function of RIDA in administering the funds of the industry.

TAB profit distribution, to the Government and the racing industry, is made as soon as possible after the end of the relevant quarter. The Act defines 'quarter' and 'quarterly accounting day'. The definitions refer to the four weekly accounting periods last expiring in the months of March, June, September and December in any year. This equates to 13 accounting periods.

It is proposed to bring TAB's accounting practices in line with commercial practice, and to facilitate more accurate yearly comparisons. The new practice will provide for 12 accounting periods per financial year.

The proposed change to the accounting periods will not have a significant effect on the dates on which TAB makes its quarterly distributions to Government and RIDA.

Current legislation allows TAB to conduct betting on football, Australian Formula One Grand Prix and any America's Cup yachting race held in Australia, any international cricket match held in Australia and on any other sporting event prescribed by regulation.

Bookmakers are permitted to provide a betting service on any approved event that is prescribed by regulation.

It is proposed to amend the Racing Act to remove the stipulation that events, including sporting events, on which betting by the TAB and bookmakers is proposed, be prescribed by regulation. It is both restrictive and time consuming prescribing events by regulation. It does not allow either the TAB or bookmakers to effectively respond to market demands. It is considered the legislation be amended to provide that betting on events by the TAB and bookmakers be

approved by the Minister provided that the controlling authority of the event does not object.

Sports betting is considered to be a growth area and one which can be well promoted because of the high level of interest generated by particular events within the general community. Sports betting is also seen as a strong platform to introduce new and light users to TAB and its other products.

It is proposed that any profit from fixed odds bets with the TAB in relation to events other than racing be paid to the Recreation and Sport Fund. This will also be the case with unclaimed dividends. It is also proposed that 1.75 per cent of bets made with bookmakers on events other than racing be paid to the Recreation and Sport Fund.

The Bill also provides for the TAB to enter into agreements with relevant interstate or overseas authorities, whereby the TAB would act as the agent of that authority for the purpose of accepting bets on sporting events. This would involve both fixed odds and pari-mutuel betting.

By providing the opportunity for fixed odds betting on sporting or other events (but not racing) the Government considers that the TAB will benefit from the initiative in the following areas:

- TAB customers will be provided a choice between pari-mutuel or fixed odds betting.
- TAB will be in a position to directly compete in the market place with other organisations that already provide these services.
- Betting on sporting and other events lend themselves to fixed odds.

At present, similar services are provided interstate and overseas, and the Government is aware
that South Australians are utilising these services. The consequence of this is that the Government and the community are missing out on the financial benefits that would arise through the profit distribution mechanisms, if the bets were placed with the TAB.

In the case of fixed odds betting, this will allow TAB to offer a service through an already established operation which has commercial benefits in the sense that the TAB will not have to develop its own fixed odds system. In the case of pari-mutuel betting, such an agreement provides marketing opportunities to the TAB as betting pools are combined and therefore the size of the pool is increased.

In addition, it is proposed to delete the definition of approved sporting venue and the requirement that an approved sporting venue be prescribed by regulation. As is the situation with prescribing events by regulation, it is both restrictive and time consuming prescribing approved sporting venues by regulation.

Explanation of Clauses

The provisions of the Bill are as follows:

*Clause 1: Short title*

*Clause 2: Commencement*

Clauses 1 and 2 are formal.

*Clause 3: Amendment of s. 14—Functions and powers of RIDA*

Clause 3 makes a consequential amendment to section 14 of the principal Act.

*Clause 4: Amendment of s. 51—Functions and powers of TAB*

Clause 4 expands the functions of TAB to include totalizator betting on all sporting events and other events instead of only on major sporting events as provided for at the moment in section 51(1)*(d)* of the principal Act.

*Clause 5: Amendment of s. 62—Acceptance and payment of bets*

Clause 5 amends section 62 of the principal Act. The amendment will allow TAB to issue cash vouchers for the purposes of betting with TAB and to accept bets electronically.

*Clause 6: Amendment of s.63—Conduct of on course totalizator betting by racing clubs*

Clause 6 amends section 63 of the principal Act to allow RIDA to authorise an unregistered racing club to conduct on course totalizator betting.

*Clause 7: Amendment of s. 69—Application of amount deducted under s. 68*

Clause 7 inserts a new subsection (4) into section 69 of the principal Act which will enable TAB to pay tax money for the three racing funds to RIDA which will then distribute the money to the funds in accordance with section 69. New subsection (5) changes the accounting periods under this section to periods that are more consistent with general commercial practice.

*Clause 8: Repeal of s. 80*

Clause 8 repeals section 80 of the principal Act. The substance of section 80 is included in new section 148A inserted by clause 22 of the Bill.

*Clause 9: Substitution of heading*

Clause 9 makes a consequential change to the heading to Division 4 of Part 3 of the principal Act.

*Clause 10: Substitution of s. 84I*

Clause 10 replaces section 84I of the principal Act with a provision that allows TAB to conduct totalizator betting on sporting events generally (except races and football matches) and on other events.

*Clause 11: Insertion of s. 84IA*

Clause 11 inserts new section 84IA into the principal Act. This section is a rule making provision similar to section 84A of the principal Act.

*Clause 12: Amendment of s. 84J—Application of amount bet*

Clause 12 removes the requirement in section 84J(1)*(a)*(iii) that part of the totalizator pool set aside may be paid to the body conducting the event on which betting was conducted.

*Clause 13: Insertion of s. 84K*

Clause 13 inserts new section 84K into the principal Act. This section will enable the combining of totalizator pools on sporting events other than races (see the definition of 'sporting totalizator pool' in subsection (8)). It is similar to section 82A of the principal Act which provides for the combining of racing totalizator pools.

*Clause 14: Repeal of Division 5 of Part 3*

Clause 14 repeals Division 5 of Part 3 of the principal Act which consists of section 84L. The substance of this section is included in new section 148A.

*Clause 15: Insertion of Part 3A*

Clause 15 inserts a new Part 3A dealing with fixed odds betting with interstate or overseas authorities. Section 84L is similar to section 82A and 84K. It provides for an agreement between TAB and an interstate or overseas authority under which TAB accepts fixed odds bets on behalf of the other authority. Section 84M provides for the distribution of the profits of this kind of betting and section 84N provides for unclaimed dividends.

*Clause 16: Amendment of s. 85—Interpretation*

Clause 16 changes the definition of 'approved event' so that an event will in the future be approved by the Minister instead of by regulation.

*Clause 17: Amendment of s. 112—Permit authorising bookmaker to accept bets*

This clause amends section 112 of the principal Act. The amendment to subsection (1) gives RIDA the general power to grant a permit to a bookmaker to accept bets on races or approved events specified in the permit at a place specified in the permit. This replaces the system of permits being limited to approved events and approved sporting venues declared by regulation. New subsection (2a) provides that RIDA must consult the person who occupies or has control of the place at which it proposes to allow a bookmaker to accept bets. Whether it consults or not, the person who occupies or controls the place is entitled to refuse permission to a bookmaker to accept bets.

*Clause 18: Amendment of s. 114—Payment to RIDA of percentage of money bet with bookmakers*

Clause 18 makes consequential amendments to section 114 of the principal Act. The opportunity has been taken to remove provisions from subsections (1) and (3) of this section that have expired.

*Clause 19: Amendment of s. 118—Effect of licence*

*Clause 20: Amendment of s. 119—Prohibition of certain information as to racing or betting*

*Clause 21: Amendment of s. 120—RIDA may give or authorise information as to betting*

These clauses make consequential changes.

*Clause 22: Insertion of s. 148A*

This clause inserts new section 148A which is in substitution for existing sections 80 and 84L.

**The Hon. CAROLYN PICKLES** secured the adjournment of the debate.

## ROAD TRAFFIC (U-TURNS AT TRAFFIC LIGHTS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

## CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (TRANSITIONAL PROVISIONS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

**The Hon. R.I. LUCAS (Minister for Education and Children's Services):** I move:

*That this Bill be now read a second time.*

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill, which amends the *Construction Industry Long Service Leave Act 1987*, will provide transitional provisions to enable the construction industry long service leave board to register workers and employers with the scheme prior to 1 April 1988.

The portable long service leave scheme, established by the Long Service Leave (Building Industry) Act, commenced on the 1 April 1977. The Act was retitled the Construction Industry Long Service Leave Act on the 1 July 1990. The scheme enables defined workers in the construction industry to become entitled for long service leave benefits based on service to the industry rather than service to one employer. The scheme is entirely self-funded.

When the scheme commenced on the 1 April 1977, workers could apply to the Construction Industry Long Service Leave Board to have service prior to the commencement of the Act recognised, provided an entitlement to long service leave did not exist. Employers were liable to pay retrospective contributions to cover this service.

As the scheme had been in operation for over 10 years, the Act was amended in 1988 to insert a schedule which removed retrospective service provisions but allowed workers a further six months to make application for unclaimed service prior to 1 April 1977. This schedule inadvertently referred to service accrued before the commencement of the *Long Service Leave (Building Industry) Act Amendment Act 1982* (operative from 1 July 1982), rather than the *Long Service Leave (Building Industry) Act 1975* (operative from the 1 April 1977). The schedule was finally repealed in December 1989, as it was considered unnecessary as the six month period for claims had expired.

The Board has received legal advice that, in the absence of transitional provisions, the current Act does not provide for liability for levies and service which accrued prior to 1 April 1988 (and which has not otherwise been recovered) to be payable to the Board.

The amendments contained in this Bill will ensure that prior service (from the commencement of the 1975 Act), and any outstanding levies, can be recognised under the current Act. The amendments have been recommended by the Construction Industry Long Service Leave Board and subject to consultation with the broader construction industry, who have indicated their support.

I seek leave to incorporate the Parliamentary Counsel's explanation of the clauses without my reading it.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Insertion of schedule 4*

This clause provides for the insertion of a new schedule relating to transitional arrangements concerning service accrued under the repealed Act (and to replace effectively a previous set of transitional provisions). In particular, express provision is made to ensure that the Board can continue to credit effective service entitlements that are found to have arisen under the repealed Act. The Board will then be able to make an assessment of the employer's liability to levies on account of that service, and recover the appropriate amount under the provisions of this Act. Interest will be payable according to the rate prescribed under the Act. Finally, a provision will be reinserted to provide that leave or payments made before the commencement of the Act will be presumed to have been made under this Act (to avoid 'double-dipping').

**The Hon. CAROLYN PICKLES** secured the adjournment of the debate.

## ADJOURNMENT

At 12.14 a.m. the Council adjourned until Thursday 3 July at 2.15 p.m.